June 20, 2019

CASA Regulatory Subgroup Land Committee Conference Call
10:30 AM – 12:30 PM

Dial-in Number: (605) 472-5814
Meeting ID: 840-541-702#

CASA Regulatory Subgroup Water Committee Conference Call
10:30 AM – 12:30 PM

Dial-in Number: (605) 472-5814
Meeting ID: 408-153-751#

Next Meeting – July 18, 2019
SCCWRP
3535 Harbor Blvd., Suite 110
Costa Mesa, CA

Biosolids Committee Agenda
Call in: 605-472-5814 ID Access code: 840-541-702#
June 20th, 2019
10:30 a.m. to 12:30 p.m.

COMMENCEMENT

Items	Presenter
Call to Order	Ryan Batjiaka
Welcome, Introductions, Roll Call	Ryan Batjiaka
Review/Approval of Agenda	Ryan Batjiaka

A. PRIORITY ISSUES/ACTION ITEMS

#	TOPIC	LEAD	TIME	PROPOSED NEXT STEPS
1.	Short Lived Climate Pollutants (SB 1383) and landfill viability for biosolids	G. Kester	10 mins	
2.	AB 901 Update	G. Kester	5 mins	
3.	PFOS/PFOA	G. Kester and Others	10 mins	
4.	Ordinance or County Updates ▪ San Bernardino ▪ Imperial ▪ others	G. Kester/Others	5 mins	

B. DISCUSSION ITEMS

#	TOPIC	LEAD	TIME	PROPOSED NEXT STEPS
State Regulatory/Legislation/Initiatives				
1.	Proposed Changes to the Low Carbon Fuel Standard (LCFS) Program	G. Kester	5 mins	
Federal Regulatory/Legislation/Initiatives/International				
1.	EPA RIN	G. Kester	5 mins	
2.	Global GAP	G. Kester/ L. Baroldi	5 mins	
3.	EPA Inspector General	G. Kester	5 mins	

Biosolids Committee Agenda
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C. INFORMATIONAL ITEMS

#	TOPIC	LEAD	TIME	PROPOSED NEXT STEPS
Biosolids Research/Innovative Technologies/Biosolids Management				
1.	WERF/CASA Biosolids Reclamation of Fire Ravaged Lands and State Funding	G. Kester	5 mins	
2.	U.S. Forest Service - Grant – for Wood Innovation Project	G. Kester	5 mins	
Regional Facilities Updates				
1.	Bay Area Biosolids Coalition	S. Deslauriers	2 mins	
2.	So. Cal & Central Valley	T. Meregillano/C. Jones	2 mins	
3.	IERCF	M. Bao	2 mins	
4.	Tulare Lake Composting Facility	M. Bao	2 mins	
Associations Updates				
1.	WEF	G. Kester	2 mins	
2.	CASA	G. Kester	2 mins	
3.	CWEA	J. Hay	2 mins	
4.	SCAP	S. Jepsen	2 mins	
5.	BACWA	R. Batjiaka	2 mins	

D. CONFERENCES AND WEBINARS

#	TOPIC
1.	WEFTEC Conference, September 21-25, Chicago
3.	CASA-CWEA Innovative Technology Seminars, September 11th, Oakland and September 17, Los Angeles
4.	W3170 Annual Meeting, June 23-25, 2019 in Beltsville, Maryland

E. CLOSING

Items	Presenter
Next Meeting	July 18, 2019
Adjourn	R. Batjiaka

Regulatory Workgroup – Water Committee

June 20, 2019
10:30 a.m. – 12:30 p.m.
Conference Call
Phone #: 605-472-5814
PIN #: 408-153-751

AGENDA

COMMENCEMENT

Call to order	Lisa Haney/Laura Pagano
Welcome / Introductions / Roll Call	"
First Time Attendees	"
Review Agenda / Additional Items	"
Prior Meeting Minutes **[attached]**	"

BOLD indicates cross-media item with the Land Committee

A. 2019 PRIORITY ISSUES / ACTION ITEMS

	TOPIC	LEADS	TIME	NOTES / RELEVANT MATERIAL
1.	Toxicity	Mitch Mysliwiec Phil Markle	25	▪ Draft Regs to be released no later than 7/3/19 here ▪ Report out on SWB Member Meetings ▪ SWB Meeting Materials **[attached]** ▪ **Next Steps: Develop comments and participate in staff workshops here**
2.	Biostimulatory Substances / Biointegrity Policy / Achievability	Mitch Mysliwiec	5	▪ CVCWA and CASA letter to SD RWQCB re: basin plan amendments **[attached]** ▪ Update on progression of CASQA study
3.	**PFAS / PFOA**	Jared Voskuhl Katie Marjanovic	5	▪ SWB PFAS materials here ▪ ENS Federal update **[attached]** ▪ Legislative updates on AB 756 and AB 841 ▪ EPA draft screening level/PRG issued in April for PFOA/PFAS in groundwater here
4.	Exfiltration	Steve Jepsen Amber Baylor	10	▪ Report out from SD TIO hearing on 6/12/19 ▪ SCCWRP & SOCWA studies on HF 183

B. DISCUSSION ITEMS

	TOPIC	LEADS	TIME	NOTES / RELEVANT MATERIAL
1.	ELAP	Amber Baylor Steve Jepsen	10	▪ US EPA Review of ELAP ▪ Report out from CA QMS Meeting on 5/20 ▪ Report out on SWB Fee workshop on 6/13 ▪ Letter to SWB staff re: CA QMS & materials **[attached]**
2.	SSS WDR	Steve Jepsen Jared Voskuhl	10	▪ Report out from mtg with NGOs on 5/30 ▪ Report out from SSMP draft product ▪ SWB Exec. Dir.'s June Report **[attached]**
3.	CA Water Quality Monitoring Council	Jared Voskuhl	7.5	▪ Report from Council's 6/6 meeting; Agenda ▪ Workgroup participants list **[attached]** ▪ CA CyanoHAB – participants needed! ▪ Healthy Watersheds Workgroup's Literature Review **[attached]** ▪ CA Water Data Science Symposium, here ▪ Next meeting: September 7, Sacramento

4.	Ocean Protection Council	Jared Voskuhl	2.5	▪ Report out from mtg on 5/23
5.	**Microplastics**	Jared Voskuhl	2.5	▪ Report out from Ocean Litter Strategy Implementation webinar on 6/11/19; here ▪ SCCWRP April Workshop Materials, here ▪ Status of Microplastics-related legislation
6.	US EPA Updates	Jared Voskuhl	2.5	▪ Dave Smith's new position – Asst. Director of Tribal and State Assistance Branch; Ellen Blake is interim replacement ▪ NACWA announcement re: EPA's Water Quality Criteria for Cyanotoxins **[attached]**
7.	CA Cemetery & Funeral Bureau	Jared Voskuhl	2.5	▪ Biocremation regulations in development; pretreatment requirements **[attached]**
8.	State Agency Website Changes	Rebecca Franklin Jared Voskuhl	2.5	▪ Effective July 1; AB 434 (2017) **[attached]**
9.	Mercury Updates	Volunteer	5	▪ Tribal cultural subsistence beneficial uses
10.	Next RWG Agenda for meeting at SCCWRP	Amber Baylor Lisa Haney	5	▪ Microplastics, ROMs model, and HF 183
11.	State Legislative Update	Jared Voskuhl	2.5	▪ AB 1672 Nonflushable wipes ▪ SB 332 Ocean discharges ban ▪ SB 69 Ocean acidification
12.	Water Quality Fees Update	Jared Voskuhl	2.5	▪ 2019 Estimated Fees **[attached]**
13.	CASA Annual Conference	Jared Voskuhl	5	▪ RWG Concurrent Session
13.	Regional Report Outs – SCAP, BACWA, CVCWA, CWEA	Regional Leads	5	▪
14.	**CASA Science & Research Workgroup**	Jared Voskuhl Amber Baylor	2.5	▪ Wipes Dispersibility Sewer Line Tests

C. STANDING ITEMS

	TOPIC	LEADS	TIME	NOTES / RELEVANT MATERIAL
1.	Outreach to SCCWRP, USEPA Region IX, CASQA	Volunteers	2.5	▪
2.	Upcoming Meetings / Opportunities to Engage	Jared Voskuhl	-	▪ See calendar below
3.	Contact List for Sub-Groups	Jared Voskuhl	-	▪ **[attached]**

D. INFORMATIONAL ITEMS (NO DISCUSSION UNLESS REQUESTED)

	TOPIC	LEADS	TIME	NOTES / RELEVANT MATERIAL
1.	Link to Executive Director's Report	-	-	▪ Recycled Water Update – May Report
2.	2019 RWG Calendar	-	-	▪ **[attached]**
3.	Water Quality Fees	-	-	▪ 2019 Stakeholder meetings **[attached]** ▪ Next meeting on 8/5/19 (tentatively)

4.	Clean Water SRF IUP	-	-	▪ CASA Letter **[attached]**
5.	California Financing Coordinating Committee	-	-	▪ Funding Fairs – 8/14, 8/15 **[attached]**
6.	2019 Water Data Symposium	-	-	▪ July 1 & 2, 2019; Agenda
7.	SWB Workshop on CV Salts			▪ July 2, 2019; Agenda **[attached]**

CLOSING

Next Meeting	July 18	In-person at Costa Mesa, 10:00 AM – 1:00 PM
Calendar	July 1 & 2	2019 Water Data Symposium
	July 2	SWB Meeting
	July 2	SWB Workshop on CV-Salts
	July 3	Expected release date for the revised Toxicity Provisions
	July 15	SWB Staff's 1st Public Workshop on Toxicity Provisions
	July 29	SWB Staff's 2nd Public Workshop on Toxicity Provisions
	August 21 – 23	CASA Annual Conference, San Diego

Minutes of the 5/16/19 Regulatory Workgroup Water Committee In-Person Meeting at the SF Regional Board

Mitch Mysliwiec called the meeting to order. There were no new first time attendees.

A. 2019 PRIORITY ISSUES / ACTION ITEMS

1. *Toxicity*
   a. Josh Westfall recapped CASA members' meeting with SWB staff on May 7, noting there was not much agreement on our concerns with staff. They did agree with using previous compliance data for potential of reduced monitoring frequency, and they were going to update the provisions to allow for dynamic modeling, as allowed in the SIP. Adam Link provided a summary of the issues that will be on the agenda for CASA members' meetings with SWB members, and then workgroup members discussed the various issues and how to frame points in contrast to the way SWB staff presents them to the SWB members**.** Josh also noted that Larry Walker Associates is interested is considering turning the *cerio* white paper into a journal article. (The discussed SWB timeline for the regs has since been revised.)
2. *Biostimulatory Substances / Biointegrity Policy (Nutrients)*
   a. Mitch described the study that CASA and CASQA are undertaking to develop talking points for the policy. Originally, the draft policy provisions were due in April, but Josh noted that SWB staff have indicated they're developing policy language over the next 18 months.
   b. Josh remarked that the San Diego Regional Board's basin plan is being amended, and previously they were trying to use multiple indicators, but now they have a 0.79 csci for everyone in the region. During the 4/18 regional board workshop, staff said they would deal with the issues in the implementation, not in the policy. Due to the potential for this policy being expanded out beyond Region 9, CASA and CVCWA will submit a joint letter, and the comment deadline was extended to June 1.
3. *PFAS / PFOA*
   a. During the general session with the land committee, Greg Kester and Jared Voskuhl provided updates on these issues. In the water subcommittee, Jared provided a timeline for the phases of the SWB's investigative orders, with Phase 3 in the fall of 2019 for wastewater plants, but noted that in the April ELTAC meeting, staff indicated Phase 3 may be pushed back into 2020 due to the amount of time Phase 1 was taking and due to the void in methods for wastewater.
4. *Exfiltration*
   a. Steve Jepsen provided an update that the Region 9 TIO will be heard at their June 12 board meeting. SCCWRP is planning a $4m study to investigate human sources of bacteria by looking at exfiltration from mains and laterals. Steve reported SCAP met several times with SCCWRP to be on the technical advisory committee for the study to ensure their test methods, assumptions, and execution are all performed in a reliable and scientific manner.
   b. Steve also noted about interactions with SWB staff working on the SSS WDR at recent meetings, and he quickly rebutted the implications and provided the facts and counterpoints about the issue. As a result, SWB staff wants to have a meeting with SCAP, CASA, and the San Diego Regional Board.
   c. Jared mentioned a report referenced at the SWB's 4/19 workshop on Homeless' Access to Sanitation that emphasized the adverse impact of leakage in its executive summary, despite later in the reports' appendices showing that doubling the impact of leakage in their models having no impact on their model

B. DISCUSSION ITEMS

1. *SSS WDR*
   a. Adam Link provided a brief update on the SWB's SSS WDR workshops, as well as meetings CASA's Collection Systems workgroup have had with SWB staff. Adam also mentioned the SWB staff's efforts for

updating the SSMP, and that we were successful in clarifying some of the initial proposals in the SSMP did not entail what they implied. SWB does not plan to include private laterals at this time, they want to find ways to incentivize good systems, and are open to considering the possibility of not requiring CIWQS reporting for spills < 50 gallons. Adam also noted that SWB staff is arranging a meeting between the POTW community and the NGO community. Steve Jepsen noted SWB staff is contemplating requiring a professionally certified employee to file a CIWQS report, instead of just a "legally responsible officer," as currently required.

b. Jeff Carson observed that while CIWQS reporting requirements for spills < 50 gallons may be decreased, they just implemented a reporting policy for]recycled water line mixes, which increases the reporting for up to 15,000 gallons; it doesn't have to be in CIWQS, but it does have to be to the executive officer of the regional board.

2. *ELAP*
   a. Steve Jepsen apprised the group that the release date for the fourth draft ELAP regs was moved from May to August. He noted that ELTAC has voted in favor of the CA QMS but ELAP's program chief has dismissed these. He also mentioned that the Coalition of Accredited Labs (CAL) is moving forward to make a public records request for the TNI documents.
   b. Nirmela Arsem noted ELAP's program chief dismissed the CA QMS because it allegedly didn't have auditability elements, and observed it's likely her next critique would be that the CA QMS doesn't provide for auditors and training them, and Steve noted this was a good point and he'd convey it to the CA QMS to include this element in their work to make more clear how its auditable.
   c. Another RWG member inquired whether the CA QMS has a checklist, and Steve replied that a checklist was also being developed by the QMS subcommittee. Nirmela also noted that David Kimbrough did an analysis of the costs, and a public health laboratory had to make a request for significant funds
   d. Another member noted there seemed to be traction with old board members, and inquired about efforts to reach out to other board members or the new members, and Steve replied there had been.
   e. Jared Voskuhl noted that from a messaging and communications standpoint to the newer board members, emphasizing that half of the 700 accredited labs in the state only have 2 employees, and so under TNI, having to hire at least another full-time employee is economically unfeasible and would result in the labs losing their accreditation. He also noted that he had reviewed markup of the ELAA statute, and in the version where "NELAP" was amended to "TNI," there were no edits or amendments to the provision authorizing state accreditation, which would allow the inference of legislative intent for both to be offered
3. *Clean Water SRF IUP*
   a. Adam provided a summary of the IUP and that he'd met with staff to discuss. He noted there's a new SRF scoring system, and CASA is preparing a comment letter on the IUP, and that the state could streamline its processes to get more funds out. He also noted federally under WIFIA, a state SRF could request federal funds, which could provide additional funds.
4. *California Water Quality Monitoring Council*
   a. Jared noted the "drinking water" chair on the council had been filled by Peter Vroom from the City of San Diego, and the next Council meeting is June 6th and hosted by SCCWRP. He also highlighted the Council's Bioaccumulation Oversight group to assess the impacts of contaminants in fish and shellfish on beneficial uses of waterbodies in the state. RWG members and Adam noted with regard to the forthcoming mercury and reservoir regulations, that the SWB is looking at attenuated ways to get to liability for bioaccumulation, and that some of the Regions are adopting new beneficial uses for fish consumption based on the SWB's adoption of policies a few years ago, and for those whose discharges contribute to reservoirs and include toxins that bioaccumulate – even very little and not in an amount that contributes to the mercury issues – they still may be identified as liable so they have to contribute to clean-up costs, thus it's important to be mindful of this workgroup and how bioaccumulation is assessed.
5. *Ocean Protection Council*
   a. Jared noted the OPC is scheduled to meet the following week on May 23.
6. *Microplastics*
   a. This item was briefly discussed in the general session, but Jared recapped the agendized items.

b. Nirmela informed the group that SFEI was hosting a workshop on May 22 on microplastics where recent research would be unveiled; in the wastewater portion of the report, they focused on microparticles from wastewater solvents; she also noted that there's a nuanced but important difference between microplastics and microparticles which isn't always accurately represented or understood; Steve Jepsen noted a lot of wipes products are made with these microparticles, which is another angle to that issue.

7. *PPIC Report – Managing Wastewater in a Changing Climate*
   a. Adam noted the PPIC study and report were released, and it addresses the impacts of per capita indoor water conservation on wastewater systems, like recycled water supply and pipe corrosion, which weren't acknowledged previously during the legislative water conservation hearings the year before.
8. *Public Safety Power Shutoff Program*
   a. Adam posed a question to the group that came from ACWA regarding the obligations put on utilities if/when power is shut off, under the new authorizations related to wildfire, and what happens in power is cut to utilities/facilities. Las Virgines had this issue in the prior autumn. Members discussed the new reality of this concern, and that generators are important, but some older generators have high emissions, which is a secondary issue for agencies.
9. *Governor's 21st Century Water Resilience Portfolio*
   a. Jared noted this recent announcement and initiative, and its documents were linked in the agenda.
10. *US EPA NPDES Update*
    a. Adam provided an update on the issues related to the *County of Maui* litigation which will be heard by the US Supreme Court next fall, and he noted there was an Interpretative Statement memo released by the US EPA, which isn't applicable in CA (the 9th Circuit), but elsewhere, it clarifies the Clean Water Act does not apply to groundwater.
    b. The sponsored federal legislation allowing NPDES permit terms for up to 10 years was introduced and has bipartisan support, and ideally later in the federal session, it'll be packaged into another bill.
11. *State Legislative Update*
    a. The legislature's Appropriations Committees' "Suspense File" hearings were being held at the same time as the RWG meeting, and during it, updates were received on bills' statuses: AB 1672 was made into a two-year bill, SB 332 was held in the suspense file, and SB 69 was amended to remove the portions pertaining to the SWB, including the denitrification protocols
12. *Regional Report Outs – BACWA, SCAP, CVCWA*
    a. *BACWA,* Lorien Fono noted the SF Regional Board adopted it's nutrient watershed permit on 5/8;
    b. *SCAP*, Steve reported he's working with CASQA to put on a stormwater/wastewater workshop with state and federal regulators.
13. *CASA Science & Research Workgroup*
    a. This item was discussed during the general session, and there are efforts to create more synergy between this workgroup and CASA's other committees and workgroups.

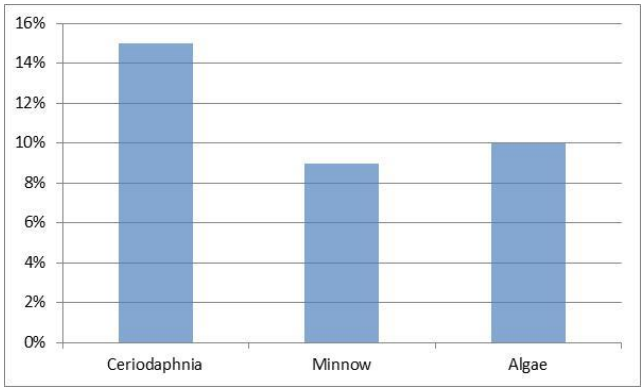
Mitch adjourned the meeting.

ATTENDEES

Mitch Mysliwiec, LWA
Steve Jepsen, SCAP
Adam Link, CASA
Jared Voskuhl, CASA
Josh Westfall, LACSD
Rebecca Franklin, RegionalSan
Carolyn Ginno, City of San Diego
Marisa Tricas, City of Roseville
Mary Lou Esparza, CentralSan
Stephen Opot, City of LA
Amanda Roa, Delta Diablo,
Lorien Fono, BACWA,
Nirmela Arsem, EBMUD
Jennie Pang, SFPUC,
Jeff Carson, Dublin-San Ramon Services District

Toxicity Testing Brief: Variability and Unreliability in the Cerio Chronic Reproduction Test

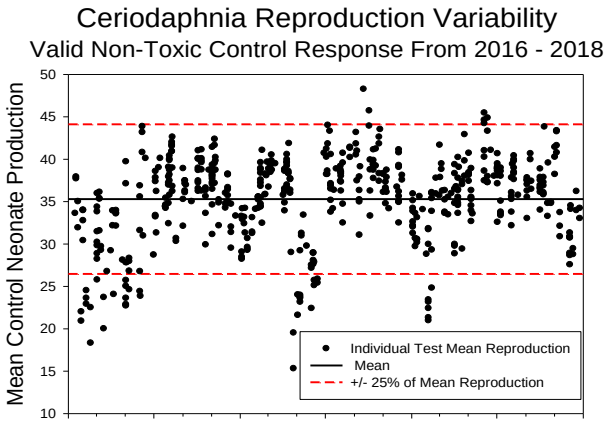
Biological Testing Is Inherently Uncertain, and the Cerio Reproduction Test is the Most Unreliable



While testing of water for chemical constituents (e.g. arsenic) is typically very accurate and precise, biological testing is not because it relies on living organisms. The freshwater test organisms are generally water fleas (*Ceriodaphnia dubia*) or fathead minnows, whichever is most sensitive. Inherent biological variability and methodological variability are higher in *Ceriodaphnia* testing. As the national average control variability for freshwater whole effluent toxicity (WET) tests demonstrates, the average *Ceriodaphnia* control variability is nearly 50% higher than the fathead minnow test and 33% higher than the green algae test.

Using the *Ceriodaphnia* Reproduction Endpoint, the Toxicity Provisions Would Regularly Identify Results as "Toxic" That Are Within the Noise of High Purity Lab Water

The draft Toxicity Plan would declare any sample exhibiting an effect greater than 25% to be toxic. The *Ceriodaphnia dubia* reproduction effect observed frequently exceeds 25% in valid, non-toxic controls consisting of high purity lab water. Historical results from one accredited lab showed that nearly 7% of the controls exhibited a 25% effect or greater relative to the overall average. Statistically speaking, if an agency were to run toxicity tests on clean, non-toxic control water for 14 months, it is more likely than not that the lab would receive a hit (violation) for toxicity, despite all of the water being completely non-toxic.



Results from Multiple Studies Raise Serious Questions Regarding the Reliability of the *Ceriodaphnia* Reproduction Test

Study Name	NOEC	IC25	TST
EPA[a]	3.6%	7.1%	14%
SMC	36%	45%	55%
WC	33%	33%	38%

Multiple studies have been conducted over the years to assess the rate at which known non-toxic blank samples testing the *Ceriodaphnia dubia* chronic reproduction test incorrectly indicate toxicity. Many of these studies are being relied upon as support for the validity of using the TST in the proposed Toxicity provisions (1999-2000 USEPA study, 2016 Stormwater Monitoring Coalition study, and 1997 study of 17 laboratories looking at the *Ceriodaphnia dubia* chronic reproduction endpoint.) The somewhat limited data from these studies indicates that the rate of incorrect determination of toxicity in the *Ceriodaphia dubia* chronic reproduction endpoint test is unacceptably high, ranging from 36% when using the NOEC to 55% when using the TST.

The "Test Drive" Study Relied Upon by Water Board Staff is Insufficient to Assess Errors and Accuracy

The "test drive" cited in support of the toxicity provisions concluded that the frequency of identifying toxicity with the TST are similar to the NOEC, but that summary is misleading. While this may be true when combining all species and endpoints, the TST identified far more samples as toxic than the NOEC for *Ceriodaphnia* reproduction and fathead minnow survival and growth endpoints. This discrepancy between the *Ceriodaphnia* reproduction endpoint for TST and NOEC results was clearly acknowledged in the peer-reviewed publication:

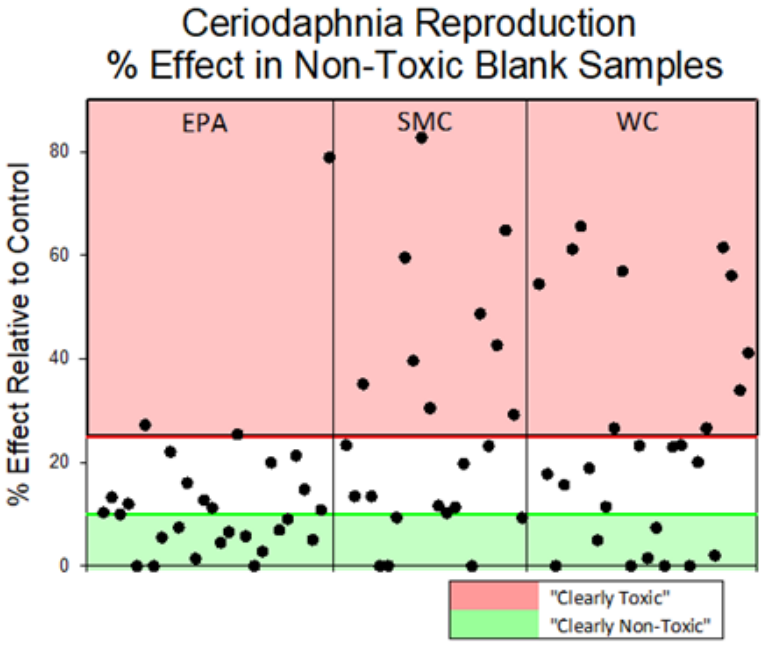
> *"Although most of the test endpoints or methods examined had either a similar or a higher percentage of tests declared toxic using the NOEC approach when the mean effect at the IWC was less than the toxic RMD, the Ceriodaphnia reproduction and the Pimephales survival and biomass endpoints exhibited a somewhat opposite pattern (Table 1)."*

Moreover, any conclusion that the TST improved result accuracy is completely unfounded. The "Test Drive" Study utilized toxicity results from tests conducted using effluent and receiving water samples (no blank samples). Therefore, the "true" or "actual" toxicity of the sample was not known.

State Water Board staff made the assumption that if a sample exhibited a 25% or greater effect, it was "clearly toxic" and if a sample exhibited an effect of 10% or less, it was "clearly non-toxic." As noted above, the *Ceriodaphnia dubia* reproduction effect frequently exceeds 25% in valid, non-toxic controls consisting of high purity lab water. Based on these assumptions, State Water Board staff concluded that the TST correctly identified "clearly toxic" and "clearly non-toxic" samples more frequently than the NOEC. Evaluating accuracy in this manner is technically flawed and completely unsupported scientifically.

We know based on the limited studies that have been conducted using clean, non-toxic control water that effects of greater than 25% are commonly observed. Therefore, the assumption that a "clearly toxic" sample is one that exhibits an effect of 25% or more is completely false. Below is a summary figure of the currently available *Ceriodaphnia* reproduction results conducted on clean, non-toxic control water showing the number of samples that would have been incorrectly assumed to be "truly toxic" (in red), even though in each every case, the tested sample was known to be completely non-toxic.

Performance of a properly designed and implemented blank study with sufficient statistical power could have the potential to resolve concerns by better quantifying the occurrence of incorrect determinations of toxicity using this species and endpoint. However, the *Ceriodaphnia dubia* chronic reproduction endpoint should be not be used to set numeric effluent limitations until these known issues with false determinations of toxicity have been resolved.



Reasonable Potential Issue in Brief

Requested Action: Modify toxicity provisions to only require effluent limits for those POTWs that have measurable reasonable potential to cause or contribute to instream toxicity in receiving waters, based on the water quality objective.

Toxicity Provision Reference (Prior Version): Section IV.B.2.b on Page 15.

Issue in Brief: Under federal regulations, effluent limits are only required in NPDES permits where it is demonstrated that an effluent has a reasonable potential to cause or contribute to an exceedance of a narrative or numeric water quality objective. "Reasonable potential" is normally determined by comparing effluent quality to the applicable water quality objective(s). This is also the approach used for toxic pollutants under the State Implementation Plan (SIP).

The proposed provisions' new toxicity water quality objective, as measured in ambient waters, is to pass the Test of Significant Toxicity (TST). The reasonable potential approach proposed by staff requires a far more conservative approach than would be required for a regular chemical constituent under the SIP, since (1) the proposed provisions make the reasonable potential threshold even more stringent than the objective by lowering the 25% regulatory management decision to be just 10% when determining reasonable potential; and (2) the TST penalizes variability in the data, even when the results are below the regulatory management decision of 25%. The 10% threshold is within the inherent variability of the toxicity test, and will push most POTWs into having effluent limits.

Setting the reasonable potential bar this low, or automatically giving all POTW numeric limits absent the determination of reasonable potential as staff have proposed, will unfairly penalize POTWs that do not threaten exceedances of the proposed toxicity water quality objective. POTWs that might not otherwise have reasonable potential will be required to perform additional monitoring and have an increased risk of incurring violations and TRE costs before having any opportunity to investigate the cause of the apparent toxicity. This is a significant problem for many smaller POTWs, which will struggle to perform the toxicity monitoring and TRE work that goes along with having an unnecessary effluent limit.

CASA Suggestion: Make simple language changes that base the "Reasonable Potential" on the actual objective of not causing toxicity in the receiving water, not on an arbitrary threshold that is a fraction of the objective. As with other constituents under the SIP, an agency with no history of toxicity (no reasonable potential) would not have a limit. Only if routine monitoring showed reasonable potential could that agency then be given a limit. This would provide the agency an opportunity to investigate and address the cause of this apparent toxicity before being put in compliance jeopardy. CASA suggests that, for POTWs with a proven track record of not causing instream toxicity, agencies would receive reduced monitoring frequencies no greater than the reduced frequencies specified in the provisions (or less if determined appropriate by the Regional Board), but without an effluent limit. This could be re-evaluated at each permit renewal.

Response to Staff Recommendation: The Water Board staff proposal is to determine reasonable potential based on a metric that is not the water quality objective, or to give all POTWs numeric limits irrespective of an appropriate requisite determination as would be required in other circumstances. This automatic imposition of numeric limits (essentially automatic reasonable potential) is a huge cost of compliance issue for agencies, particularly smaller agencies, and is wholly unnecessary for those who would not otherwise receive numeric limits. Eliminating this "automatic" imposition of limits in the Provisions is equitable, consistent with federal regulations and other Board plans and policies, and is still protective of beneficial uses.

Instream Waste Concentration (IWC) Issue in Brief

Requested Action: Incorporate specific language changes in the Toxicity Provisions which allow Regional Boards flexibility to properly consider the actual dilution of POTW discharges in setting toxicity limits in NPDES permits.

Toxicity Provision Reference (Prior Version): Section IV.B.2.d, Pages 20 and 21.

Issue in Brief: Whole effluent toxicity (WET) measurements are intended to be an approximate indicator of toxicity in receiving waters in the vicinity of POTW discharges. Best available scientific literature, including USEPA documents, indicates that chronic WET results are <u>not</u> strongly related to instream conditions and that proper consideration of dilution is essential to connecting chronic WET results to instream effects. The IWC determination is where this consideration of dilution occurs in the NPDES permitting process.

The proposed Toxicity Provisions prescribe a conservative, simplistic approach which unnecessarily limits the consideration of actual dilution. This results in overly conservative effluent limits, which create unnecessary compliance problems and overpredicts effluent effects, if any, in receiving waters.

CASA Suggestion: Modify the language of the proposed Toxicity Provisions to provide the Regional Water Boards flexibility to consider actual dilution in setting the IWC. Examples could include seasonal limits, limits based on actual stream flow conditions during discharge, dynamic modeling, stochastic (statistical) approaches, or others. The SIP already allows similar flexibility for effluent limits for priority pollutants, and this change to the policy is consistent with USEPA guidance.

Specific language changes are:

Page 20, last paragraph, last sentence:

> "The dilution ratio shall be determined using the parameters specified in Table 3, <u>or, alternatively, shall be determined using a method approved by the Permitting Authority that accounts for actual dilution conditions occurring in the receiving water during the period of the toxicity test, including, but not limited to, consideration of seasonality</u>."

Specific conforming language changes to Table 3 are also suggested.

Response to Staff Recommendation: Staff continues to state that its proposal is taken directly from the SIP, and that any change from the proposed language is beyond the scope of the Toxicity Provisions. CASA disagrees. The Toxicity Provisions were originally scoped to allow Regional Boards flexibility to set the IWC in the TST testing method. The latest proposed version of the Toxicity Provisions remove much of that flexibility.

FAQ

Is the CASA proposal consistent with the SIP? Yes. In Section 1.4.D on page 13 of the SIP, it states that "in determining the appropriate available receiving water flow, the RWQCBs may take into account actual and seasonal variations of the receiving water and the effluent."

Will the CASA proposal reduce POTW compliance problems and costs? Yes. Many of the observed chronic toxicity trigger exceedances for advanced treatment POTWs are low level occurrences which would be eliminated by consideration of dilution in the range of 1:1 to 2:1. During periods of modest dilution, proper accounting for this condition would result in significant savings, including Toxicity Reduction Evaluation (TRE) and monitoring costs.

Summary

From the POTW perspective, in setting chronic toxicity effluent limits, actual dilution of POTW discharges must be considered. The language changes requested by CASA allow Regional Board to properly account for actual dilution in determining the IWC used in the TST procedure.

CVCWA Central Valley Clean Water Association

May 31, 2019

Via Electronic Mail Only

Mr. David W. Gibson
Executive Officer
San Diego Water Quality Control Board
2375 Northside Drive, Suite 100
San Diego, CA 92108

Comment – Proposed Basin Plan Amendment to Incorporate Biological Objectives, PIN: CW-825417; Attn: Chad Loflen

Mr. Gibson:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide public comments on the Proposed Basin Plan Amendment to Incorporate Biological Objectives into the Water Quality Control Plan for the San Diego Region. CVCWA is a non-profit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters with the perspective of balancing environmental and economic interests consistent with state and federal law.

The California Association of Sanitation Agencies (CASA) joins with CVCWA in the submission of these comments on the Proposed Basin Plan Amendment. For 60 years, CASA has been the leading voice for public wastewater agencies on regulatory, legislative and legal issues. CASA is an association of local agencies engaged in advancing the recycling of wastewater into usable water, generation of renewable energy, and other valuable resources. Through these efforts CASA's members help create a clean and sustainable environment for Californians.

CVCWA is an active participant in the State Water Resources Control Board's (State Water Board) ongoing efforts to develop a *Biostimulatory Substances Objective and Program to Implement Biological Integrity* (Biostimulatory and Biointegrity Policy) applicable to wadeable inland surface waters of California, including the San Diego region. Rather than wait for the State Water Board to

produce the Biostimulatory and Biointegrity Policy and use the data developed in that effort to inform its actions, the San Diego Regional Water Quality Control Board (San Diego Water Board) has decided to move forward with its own approach to establishing objectives to protect the biological integrity of surface waters.

Although not directly applicable to CVCWA's members, this action causes concern because the San Diego Water Board's proposed Basin Plan Amendment would set biological objectives at levels that are too low to be reasonably attained in numerous water bodies. Furthermore, the San Diego Water Board's approach fails to identify relevant data and evidence to support thorough analyses of the current water quality in the region; the attainability of the proposed water quality objective (WQO); past, present and future beneficial uses of all surface waters; and the projected impacts the proposed WQO will have on the region's water quality. CVCWA is also concerned that the proposed Basin Plan Amendment fails to consider data and other information that is readily available from the overlapping State Water Board process.

Similarly, CASA does not routinely comment on matters within individual regions, except in circumstances such as this, where the proposed regional action could have significant statewide implications. To the extent that the San Diego Water Board's actions related to the Proposed Basin Plan Amendment could affect or interfere with how the State Water Board develops and implements its Biostimulatory and Biointegrity Policy, or could be replicated in other regions, all of CASA's members statewide have a significant interest in the development and implementation of the Proposed Basin Plan Amendment.

Proposed Biological Water Quality Objectives

The proposed Basin Plan Amendment would establish a biological water quality objective (described as a "formal minimum standard" in the accompanying Substitute Environmental Document [SED]) for both perennial and seasonal surface waters in the region that would require attainment of a California Stream Condition Index (CSCI) score of 0.79. The CSCI is a biological metric used to "score" the condition of benthic macroinvertebrate (BMI) communities in perennial wadeable streams and rivers. As stated in Section 1 of the Staff Report, "the goal and intent of the Biological Objectives project is to use biological assessment … to better protect and restore waters using biological metrics to directly measure beneficial use attainment." The proposed Basin Plan Amendment, Staff Report, and SED are clear that where discharges are determined to cause or contribute to degradation (i.e., a CSCI score of less than 0.79), permit and TMDL requirements will be established which require attainment of this CSCI index value in those waters. However, the proposed Basin Plan Amendment and its supporting materials do not provide the required analyses for basin plan amendments as set forth in the Water Code, and as a

result do not accurately portray the impacts or reasonableness of actually achieving the proposed biological WQO.

Major Comments

The proposed Basin Plan amendment and accompanying Staff Report and SED have the following significant problems which must be remedied:

1. **Failure to adequately consider the ability to attain the proposed water quality objective in the perennial and seasonal streams of the San Diego Region**

From both a practical and a legal perspective, the San Diego Water Board is obligated to consider whether the proposed biological water quality objectives can be achieved in all of the perennial and seasonal surface waters in the region. (Wat. Code, § 13241(c) [requiring consideration of "[w]ater quality conditions that could reasonably be achieved"]; see also Wat. Code § 13000 ["[T]he waters of the state shall be regulated to attain the highest water quality which is reasonable. . ."].) A first step is an evaluation and accounting of waters that currently reliably achieve or do not reliably achieve the proposed objective (i.e. a CSCI score of 0.79). Then, if the water does not achieve the proposed objective, the San Diego Water Board would determine the degree to which the proposed objective is not achieved. Information available through the work performed by the Southern California Coastal Water Research Project (SCCRWP) for the State Water Board's Biostimulatory and Biointegrity Policy effort would enable such an evaluation. The database compiled by SCCWRP containing CSCI data and other factors used in the policy development contains 5,890 records of sample results from sites across California. These records indicate that, State-wide, 57.6% of the measured CSCI scores are 0.79 or greater.

Measurements in Region 9 occurred at 318 unique sites, of which 52.2% have average CSCI scores greater than 0.79, and 40.6% of sites have a minimum measured CSCI score greater than 0.79. There are a number of water bodies corresponding to those 318 unique sites that will fall into the category of not meeting the proposed objective. Currently, however, such readily available information is not presented in the Basin Plan Amendment, staff report, or SED, and has apparently not been considered in drafting the proposed Basin Plan Amendment. Thus, the proposed Basin Plan Amendment fails to include available information that would illustrate the extent to which water bodies would be able to achieve the proposed WQO.

2. **Lack of a policy approach and program of implementation in surface waters that currently do not meet and probably will not ever meet the proposed biological WQO**

Because information has not been articulated regarding the number of surface waters that do not currently, and probably would never, meet the proposed biological water quality objective, an associated regulatory policy approach and program of implementation to address such waters has also not been described. This is a fundamental flaw with the proposed Basin Plan Amendment. Water Code section 13242 requires the San Diego Water Board to develop a program of implementation that describes the step "necessary to achieve the [water quality] objectives . . . ." The proposed Basin Plan Amendment glosses over the fact that water bodies might not meet the proposed WQO and fails to outline the actions that must be taken to ensure that water quality eventually complies with the proposed WQO.

The State Water Board process for developing its Biostimulatory and Biointegrity Policy recognizes streams may have physically constrained habitat limiting the possible CSCI score. In the work plan to develop the subject policy, the State Water Board acknowledges that the "biological objectives should be flexible enough to accommodate different biological expectations for different types of systems including unaltered streams, moderately, and even highly modified streams." In the most recent Stakeholder Advisory Group (October 2018) the State Water Board noted that the statewide Biostimulatory and Biointegrity Policy will include consideration of alternative approaches for constrained channels. To support this consideration, the State Water Board has developed supporting technical tools that should be considered when developing the San Diego Biological Objectives.

One of the tools developed for the State Water Board's process is a model Predicting Biological Integrity of Streams Across a Gradient of Development in California Landscapes,[1] or "Developed Landscapes Project." The model predicts which CSCI scores are possible in a waterbody given a range of potential non-water quality constraints. Anthropogenic and natural landscape features can constrain biological condition (such as impervious surfaces, non-native vegetation cover, road density and crossings, elevation, geology) and were used to create categories considered by the tool. The model calculates the range of CSCI scores that are likely for a given site and can also predict the probability of achieving a particular CSCI score, based on the physical constraints. The model results and corresponding CSCI measurements for the Santa Margarita Watershed are presented in Figure 1, with the bars representing the range of expected scores and circles corresponding to the

[1] Beck, M.W., R. Mazor, S. Johnson, K. Wisenbaker, J. Westfall, P. Ode, R. Hill, C. Loflen, M. Sutula, and E. D. Stein. 2018. Prioritizing management goals for stream biological integrity within the developed landscape context. Submitted September 10, 2018 to the Journal of Freshwater Science.

measured values. It is notable how variable the CSCI scores are at any individual site, calling into question what is considered compliance, i.e. whether all measurements are greater than 0.79, whether the average is greater than 0.79, or whether any measurement is above 0.79. The red and dark red bars correspond to channels unlikely to achieve a 0.79 CSCI score (the average of samples is likely to be less than 0.79), or the range of potential CSCI scores is unlikely to exceed 0.79 (the maximum measurement is likely to be less than 0.79). The modeled ranges of CSCI scores consider constraints due to local geography and development, which are semi-permanent or permanent features. Without changing these features, improved water quality will likely not result in increasing the CSCI score above 0.79.

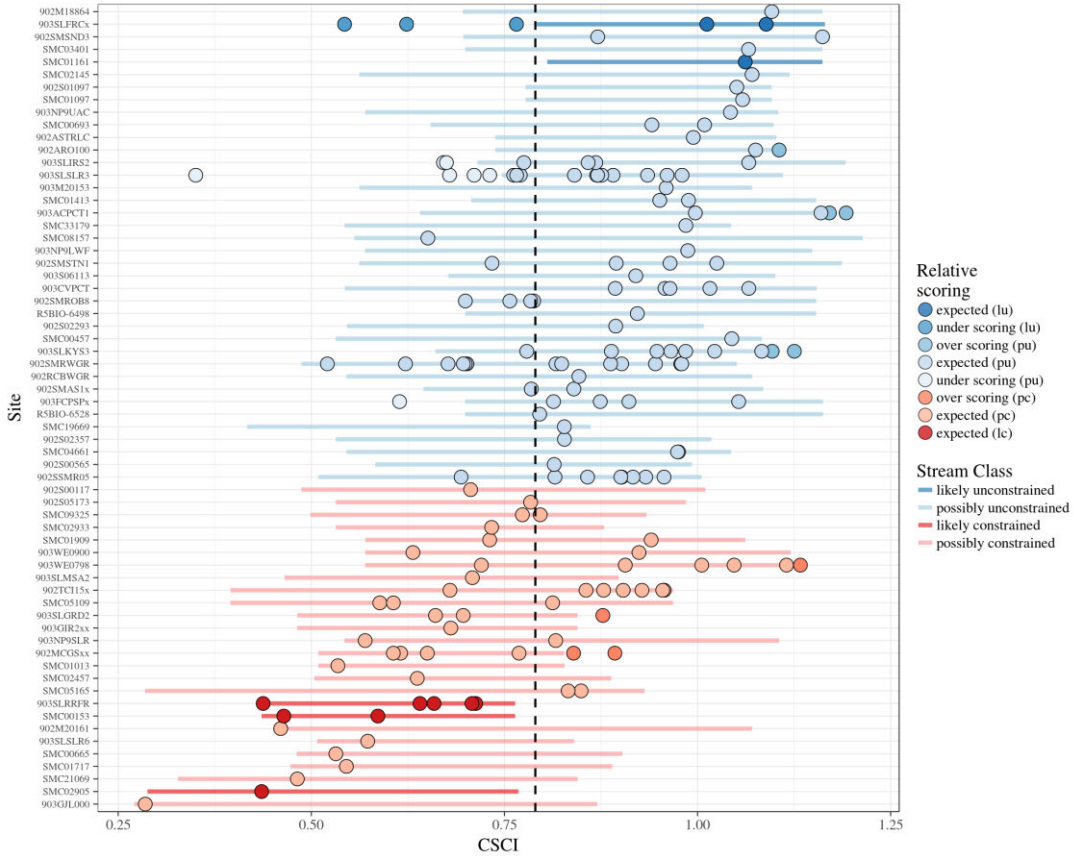


Figure 1. Channels in Developed Landscapes modeled (bars) and actual site CSCI scores (dots and triangles). Each horizontal bar represents a CSCI score prediction range for a stream in the Santa Margarita River Watershed.

3. Failure to fully acknowledge or address its responsibilities under the California Water Code in setting water quality objectives

Section 13241 of the Water Code provides that:

> Each regional board shall establish water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance; however, it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses. Factors to be considered by a regional board shall include, but not necessarily be limited to, all of the following:
>
> (a) Past, present, and probable future beneficial uses of water.
> (b) Environmental characteristics of the hydrologic unit under consideration, including the quality of water available thereto.
> (c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.
> (d) Economic considerations.
> (e) The need for housing within the region.
> (f) The need to develop and use recycled water.

Section 13242 of the Water Code requires that:

> The program of implementation for achieving water quality objectives shall include, but not be limited to:
>
> (a) A description of the nature of actions which are necessary to achieve the objectives, including recommendations for appropriate action by any entity, public or private.
> (b) A time schedule for the actions to be taken.
> (c) A description of surveillance to be undertaken to determine compliance with objectives.

The SED includes text which is intended to address Water Code section 12341 requirements, however, does not attempt to address Water Code section 13242 requirements. The SED describes the regulatory mechanisms (permits, TMDLs, non-TMDLs, enforcement actions) that would be used to compel dischargers to achieve the proposed biological water quality objective. The SED also makes general reference to actions that would be employed (e.g. monitoring, pollutant and flow controls, in-stream restoration actions). The SED implies, but does not

demonstrate, that all waters in the region will eventually meet the proposed objective. This information is insufficient in fulfilling the requirement of Section 13241.

Specifically, the SED fails to address the fact that some waters of the region do not currently achieve, and may not "probably" achieve, the beneficial use defined by attainment of the CSCI index score of 0.79. As mentioned above, Water Code sections 13241(a) and (b) require the San Diego Regional Board to discuss the current uses and conditions of the subject water bodies. Additionally, the California Environmental Quality Act (CEQA) requires a discussion of the current environmental conditions for a given project, or the "baseline" environmental conditions. This failure to clearly acknowledge and quantify the status of beneficial uses is a fundamental flaw which hampers the overall Water Code section 13241 analysis offered in the SED, as well as impairs the SED's ability to evaluate the degree of environmental impact associated with the proposed Basin Plan Amendment under CEQA. In order to meet legal requirements, the proposed Basin Plan Amendment and SED must consider actual data for waters in the region, quantify (i.e., estimate) the percentage of waters that do and do not currently meet the proposed objective, and examine the degree to which specific waters do not meet the proposed objective.

The SED also falls far short of a credible assessment of the achievability of the proposed objective in all waters in the region as required by Water Code section 13241(c). After determining whether and where the proposed WQO is achieved in waters, the assessment should then discuss the ability for waters that do not currently meet the objective to achieve the objective through certain remediation actions. This information should be based on some form of tangible analysis, for instance case examples where improvements in water quality have been seen and information to indicate that proposed remediation measures will be effective. The assessment must also include an analysis to demonstrate whether such measures are reasonable (i.e., feasible, proven, cost-effective, affordable). Finally, the assessment should identify waters that are not expected to ever meet the objective, despite the implementation of remediation actions. This finding should inform the program of implementation for such waters, as required under Section 13242.

The SED includes arguments that the adoption of the Basin Plan amendment will not increase costs due to savings that will occur due to a reduction in existing permit and TMDL requirements. However, these arguments are non-specific and include questionable assumptions regarding: (1) the ability to identify causative factors for water bodies which do not attain the desired CSCI value of 0.79; and (2) changes in existing requirements (e.g. chemical-specific NPDES permit or TMDL requirements) as a result of implementation of the proposed biological objective. With respect to (1), there is little evidence that causal assessments will yield specific solutions that lead to attainment of the proposed objectives. With respect to (2), such

changes require significant future regulatory actions which may or may not be approved and implemented. Therefore, the assumed economic benefits of the proposed objectives are not certain to occur, and cannot be treated as certain. The economic analysis provided in the SED is insufficient in its detail and conclusions because it fails to consider economic impacts that may result if the assumptions listed in the SED do not become reality.

The SED's insufficient analysis of Water Code section 13241 requirements (i.e., the failure to identify measures that will lead to the achievement of the proposed water quality objectives in all surface waters in the region) precludes satisfaction of Water Code section 13242 requirements. By failing to provide a comprehensive analysis of the objective and whether it will or could be met in various water bodies in the San Diego area, there is no starting point of water quality from which to develop an adequate program of implementation.

In summary, the SED fails to provide adequate information to address pertinent Water Code requirements. Beyond this legal and technical failure, the lack of an approach to deal with surface waters that do not currently achieve the desired CSCI index value represents a fundamental flaw in the proposed water quality objective and associated program of implementation. This flaw must be addressed prior to adoption of the proposed Basin Plan amendment.

4. **Reliance on causal assessment tools which are unproven and unlikely to identify solutions as implied in the proposed Basin Plan Amendment, Staff Report, and SED**

   With regard to causal assessment tools, the SED states the following:

   > Work in the San Diego region found the USEPA CADDIS tool to show promise but be overly cumbersome and not cost effective (Chiff et al. 2015). More recent rapid causal assessment methods have been developed by the City of San Diego with Tetra Tech, and by SCCWRP, which automates the process and uses existing predictive modeling and extensive bioassessment datasets (City of San Diego 2015b, Gillett et al under review).

   Given the inherent difficulty in successfully identifying the causes and corrective measures needed to improve CSCI scores in a given water body, the SED appears to be overly optimistic regarding the effectiveness of the tools in question. This raises the following questions:

- What is the track record of proposed causal assessment tools in identifying causes and management measures needed to improve CSCI scores to the proposed objective?
- What happens if these tools are not successful, i.e. when cause cannot be determined?
- What assurance or evidence exists that solutions derived from efforts to comply with the proposed biological objectives will have influence over ongoing regulatory requirements or processes in permits and TMDLs?

These questions should be addressed in the SED, given the reliance of the proposed approach on the causal assessment step.

Recommendation

CVCWA and CASA recommend that the San Diego Water Board decline to adopt the Basin Plan Amendment in its current form, and direct staff to remedy the above-described problems in a revised version of the Basin Plan Amendment that addresses these issues holistically.

Again, CVCWA and CASA appreciate the opportunity to review the proposed Basin Plan Amendment for biological WOQs, Staff Report, and SED, and to provide these comments. We are available to connect with your staff to discuss our comments and approaches to address the deficiencies we have described. If you have any questions, or if CVCWA or CASA can be of further assistance, please contact Debbie Webster of CVCWA at eofficer@cvcwa.org or (530) 268-1338; or Adam Link of CASA at alink@casaweb.org or (916) 446-0388, extension 102.

Sincerely,

CVCWA

Debbie Webster
Executive Officer

CASA

Adam Link
Director of Operations

ENS Federal Report – June 14, 2019

Bipartisan Group of Senators Prepare to Address PFAS/PFOA Regulation

Months of discussions culminated this week in a bipartisan agreement in the Senate to address the regulation of the Per- and polyfluoroalkyl substances (PFAS/PFOA). Led by Senator Shelly Moore Capito (R-WV) and cosponsored by Senate Committee on Environment and Public Works Chair John Barrasso (R-WY) and Ranking Democrat Tom Carper (D-DE), an amendment addressing the public health threats associated with the chemicals will be offered to the National Defense Authorization Act (NDAA) during Senate floor debate scheduled to begin next week. The amendment encompasses several bills introduced over the past months. If adopted in the Senate, it appears highly likely that the measure will become the legislative vehicle for Congress and the Administration to finalize a PFAS/PFOA response in the coming years.

As drafted, the following mandates would be triggered if enacted as part of NDAA:

- Authorize the Secretary of the Department of Defense to enter into grant agreements or contracts to address groundwater or surface water contamination with a local water or wastewater agency holding jurisdiction over the contaminated site
- Require immediate (1 year after enactment) inclusion of chemicals on Toxics Release Inventory for reporting emissions with a threshold of 100 pounds (within 5 years USEPA to determine if threshold reporting should be revised)
- Require following assessment of chemicals that PFAS/PFOA are automatically listed on inventory beginning January 1 after any of the following dates:
    - Toxicity value established
    - New use rule or an addition to existing significant new use rule
    - Designated as an active chemical on inventory
- Determine, within 2 years of date of enactment, whether PFAS/PFOA substances and classes of substances not listed on inventory should be listed
- Require USEPA to determine and promulgate a primary drinking water standard and to consider other quality control, testing and monitoring procedures to ensure compliance with drinking water standards
- Require issuance of lifetime health advisory
- Require monitoring and detection for unregulated contaminants (PFAS/PFOAS substances and classes) for which a method for detection has been validated and for which are not subject to primary drinking water standard (provides that limitation of 30 unregulated contaminants for public agency monitoring does not apply)
- Allows for waiver of monitoring mandates if insufficient laboratory capacity
- Authorizes use of U.S. Environmental Protection Agency (USEPA) Drinking Water SRF resources to provide grants to address emerging drinking water contaminants with focus on PFAS/PFOA (25% of amounts available to support disadvantaged

communities and systems serving under 25,000 persons) $100 million annually authorized from 2020-2024

- Directs U.S. Geological Survey (USGS) to establish a performance for detection of PFAS/PFOA with focus on as sensitive as is feasible and practicable to ensure accurate sampling and testing
- Mandates USGS to conduct nationwide survey to determine human exposure through drinking water
- Establish a federal research program into the development of treatment methods for emerging contaminants
- Require manufacturers of PFAS/PFOA to report data pursuant to TSCA related to manufacturing from the year 2006 forward
- Require by June 22/2020 a final decision on TSCA significant new use rule
- Require USEPA to issue interim guidance on the destruction and disposal of PFAS/PFOA targeting, and taking into account potential for releases, impacts on vulnerable populations near disposal sites and guidance on testing and monitoring of air, effluent, and soil near potential destruction or disposal sites for releases:
    - Firefighting retardant
    - Soil and biosolids
    - Textiles treated with chemical
    - Spent membranes, filters and other wastes from water treatment

Article 1. Definitions
§64801. Definitions

Article 2. Accreditation Process
§64802.00 Accreditation Process
§64802.05 Initial Accreditation
§64802.10 Renewing Accreditation
§64802.15 Amending Accreditation before Renewal
§64802.20 Acceptance of Another State or Federal Government Agency's Accreditatio
§64802.25 Changes in laboratory name or location; structural alteration; or adding mobile or auxiliary facilities

Article 3. Application Packages
§64804 Application Packages

Article 4. Accreditation Fees
§64806.00 Accreditation Fees (fees are place-holders only)

Article 5. Quality System Standards
§64808.00 Quality System Standards
§64808.05 Analytical Methods
§64808.10 Onsite assessments of 64808.00
§64808.150 Service Transparency

Article 6. PT Study Requirements
§64810. PT Study Requirements

Article 7. Laboratory Personnel Requirements
§64812.00 Personnel Training
§64812.05 Technical Manager Qualifications
§64812.10 Quality Manager Qualifications
§64812.15 Changes in Persons Identified as Technical Manager

Article 8. Notification and Reporting
§64814. Notification and Reporting

Article 9. Trade Secrets
§64816. Trade Secrets

Article 10. Sale or Transfer of Ownership of a Laboratory
§64818. Sale or Transfer of Ownership

Article 1. Definitions

§64801 Definitions.

a) Definitions found in *Management and Technical Requirements for Laboratories Performing Environmental Analyses*, The NELAC Institute (TNI), Rev 2.1, September 1, 2016, Volume 1, Modules 1 thru 7 apply to these standards. Any definition that does not exist in the standard are defined below. Any clarification to the definition in the above standard is cited below.

1) "Auxiliary facility" means any stationary or exempted mobile facility as defined under Mobile laboratory below, which meets the requirements in section 64802.25
2) "Batch" is defined as found in TNI 2016, Rev. 2.1, Volume 1, Module 2, section 3.
3) "Board" means the State Water Resources Control Board.
4) "California analyte" means a substance, organism, physical parameter, property, or chemical constituent required only by California statute or regulation.
5) "CA/NV AWWA" means the California/Nevada section of the American Water Works Association.
6) "CWEA" means the California Water Environment Association.
7) "DL" or "Limit of Detection" as found in the TNI standard means the Method Detection Limit (MDL). The laboratory is to follow the procedure as found in regulation or the regulatory approved method.
8) "ELAP" means the Environmental Laboratory Accreditation Program.
9) "Field(s) of Accreditation Matrix" is defined as the same as that listed for Quality System Matrix in Volume 1, Module 2, section 3.0 for the matrix portion of the complete Field of Accreditation definition (Matrix-Method/Technology-Analyte).
10) "International Standard" means the ISO standard 17025-2005.
11) "Laboratory Director" means the person who, for the laboratory is the person designated to perform the duties described in TNI 2016, Rev. 2.1, Volume 1 Module 2 for management and top management. The Laboratory Director is considered a Technical Manager and shall comply with the educational and experience; or certificate level found in 64812.05.(b). Where staff is limited the position of Laboratory Director may be combined with the position of Quality Manager. If combined, then the person must perform all duties as required by TNI 2016, Rev. 2.1, Volume 1 Module 2 for each position.
12) "LOQ" or "Limit of Quantitation" as found in the TNI standard means the Minimum Level (ML); DLR; or Reporting Level (RL) specified by regulation.
13) "Mobile laboratory" means a non-stationary facility such as a vehicle; trailer; or other facility that can be transported. This does not include trailers or other facilities that are placed at the laboratory location and permanently connected to utility services.
14) "Owner" means for a commercial laboratory, any person who is a sole proprietor of a laboratory, or any person who holds a partnership interest in a laboratory, or any person who is an officer, or 5% (five percent) or more shareholder in a corporation which owns a laboratory. For governmental or publicly-owned laboratories the owner is

the agency in which the laboratory resides organizationally.

15) "Owner's Agent" or "Agents of Owners" means those persons who have been designated by the Owner(s) of the laboratory to act in its behalf for purposes of complying with these regulations or the statutes under which these regulations are adopted.
16) “Quality Manager” means the person who will perform the duties found in Volume 1, Module 2, section 4.1.7.1.
17) "Trade Secret" means any information that meets the definition in Section 6254.7(d) of the Government Code.
18) "Trailer" is the same as the definition given in Section 630, Vehicle Code.
19) “Unit(s) of Accreditation” means the same as Field of Accreditation as found in TNI 2016, Rev. 2.1, Volume 1, Module 2, section 3.
20) "Vehicle" is the same as the definition as given in Section 670, Vehicle Code.

b) All references to days, weeks, months or years are calendar based.

Article 2. Accreditation Process

§64802.00 Accreditation Process.

a) All laboratories seeking Initial or Renewal accreditation shall state at the time of application whether they wish accreditation under California ELAP accreditation; or via recognition allowed in section 64802.20 below.
b) All citations to the TNI standard incorporated by reference are from the *Management and Technical Requirements for Laboratories Performing Environmental Analyses*, The NELAC Institute (TNI), Rev 2.1, September 1, 2016
c) All on-site assessments will be conducted in accordance with the requirements found in General Requirements for Accreditation Bodies Accrediting Environmental Laboratories 2009 Rev. 0.1 V2M3 Section 6.
d) Regardless of which accreditation program chosen, all laboratories shall comply with the following based on the type of accreditation desired.

64802.05 Initial Accreditation

a) A laboratory shall:
   1) Submit a complete application package in accordance with 64804;
   2) Submit performance test sample results in compliance with 64810;
   3) Submit a Quality System manual in compliance with 64808; and
   4) Submit fee payment in accordance with 64806
b) The laboratory shall be assessed compliance with 64808 through an on-site assessment.
c) A laboratory may be granted interim accreditation prior to the on-site assessment in accordance with H&SC 100850.(d) if all ~~any~~ of the following information is provided with the application.
   1) Successful results from performance test samples
   2) Method performance data as required by TNI 2016, Rev. 2.1, Volume 1 Module 2, section 5.4.5.
   3) Initial Demonstrations of Capability as required by TNI 2016, Rev. 2.1, Volume 1, Module 3 through 7, section 1.6.1 as appropriate for the method(s). .

64802.10 Renewing Accreditation

a) A laboratory shall:
   1) Submit a complete application package in accordance with 64804;
   2) Submit a Quality System manual in compliance with 64808;
   3) Submit fee payment in accordance with 64806; and
   4) The laboratory shall be assessed compliance with 64810 performance test sample results.
   5) The report of actions taken as a result of an onsite assessment conducted during the second year of accreditation.
b) The requirements in a) above are to be submitted by the laboratory at least 90 days prior

to the expiration date of the certificate.

64802.15 Amending Accreditation before Renewal

a) If amending accreditation by the addition of one or more Fields of Accreditation a laboratory shall:
   1) Submit a notice of intent to amend by addition listing the requested Field(s) of Accreditation and any information that has changed since the last application;
   2) Submit an amended Quality System document;
   3) Submit performance test sample results in compliance with 64810. If performance test sample(s) do not exist, then submit data and documents showing the following
      A) The results of the initial demonstration of capability if the addition(s) are Field(s) of Accreditation consisting of analytical methods and analytes approved for regulatory use by state or federal agency.
   4) Submit fee payment in accordance with 64806
b) If amending accreditation by the removal of one or more Fields of Accreditation a laboratory shall:
   1) Submit a notice of intent to amend by removal and a list of Field(s) of Accreditation to be removed.
   2) Submit an amended Quality System document.
   3) The effective date with regards to accreditation is the date of the laboratory's notice to ELAP.

64802.20 Acceptance of Another State or Federal Government Agency's Accreditation

a) A laboratory may submit an accreditation issued by another State or by a federal government agency and request accreditation if any of the following conditions exist
   1) ELAP grants recognition for a certificate issued by:
      A) An issuing agency recognized by The NELAC Institute as an Accrediting Body; or
      B) An issuing agency of the federal Department of Defense or Department of Energy. This includes any third-party accrediting bodies employed by either agency.
b) The other agency's accreditation must be submitted with an application per section 64804 along with the results of all applicable PT results and the onsite assessment findings issued by the accrediting agency.
c) The requested Field(s) of Accreditation must match those cited on the other agency's accreditation.
d) Per H&SC 100845.(a) any issued ELAP accreditation expires 24 months from the date of issue. If during that period, the laboratory is to report to ELAP within 15 days of the event if any of the following occur.
   1) The issuing agency renews the certificate. The laboratory is to provide a copy and any attached lists of Fields of Accreditation.
   2) The issuing agency denies; revokes; or suspends the certificate. The laboratory is to provide details of the reasons and the effective date. If the certificate is suspended, then the period of suspension.

e) When renewing ELAP accreditation, the laboratory is to comply with the renewal process as stated in section 64802.10.
f) ELAP retains authority under H&SC 100865.(a) to submit PT samples or conduct an onsite assessment of the laboratory. The laboratory shall pay all applicable fees per section 64806.

64802.25 Changes in laboratory name or location; structural alteration; or adding mobile or auxiliary facilities

a) During the 24-month duration of accreditation the laboratory will provide written notification to ELAP within 30 days if any of the following occurs:
    1) Change in laboratory name. The laboratory is to report the old and new names. The change cannot be as a result of a change in ownership. Name change via change in ownership is to comply with section 64816
    2) Change in physical location or structural alterations or
    3) Addition of auxiliary or mobile facility(ies).
    4) The written notice shall include applicable fees per section 64806.
b) Conditions defining an auxiliary facility are as follows:
    1) Operated by the owner of a laboratory for the purpose of providing additional capacity, or to reduce or eliminate sample contamination; and
    2) Performs analyses in one or more of the same Field(s) of Accreditation listed under the accreditation; and
    3) Under the supervision of the Laboratory Director as the laboratory to which it is auxiliary; and
    4) Receives samples from, and reports raw analytical data to, the laboratory to which it is auxiliary for its generation of the final report; and
    5) Located such that the transport of samples to the auxiliary laboratory does not affect the quality of the analytical results.
c) ELAP under authority of H&SC 100865.(a) may submit PT samples or conduct onsite assessments of the laboratory for any change in location, structural alteration or addition of auxiliary or mobile facility(ies).

Article 3. Application Packages

64804 Application Packages

a) A laboratory applying for initial accreditation shall submit an application package with the following information
   1) Laboratory Name
   2) Laboratory location address
   3) Contact information including at least a mailing address; phone number and e-mail address for the person designated the Laboratory Director. The laboratory may supply contact information for other persons within the laboratory
   4) Name of person(s) identified as Technical Manager(s) and information supporting meeting the qualifications in section 64814. This position may be filled by the Laboratory Director as long as that person meets the requirements of section 64814.
   5) Name of the person identified as the Quality Manager. This position may be filled by a Technical Manager or the Laboratory Director.
   6) A complete list of Field(s) of Accreditation sought for accreditation
   7) The application must be signed by an Owner or an Owner's agent

Article 4. Accreditation Fees

64806 Accreditation Fees (fees are place-holders only)

a) Laboratories shall pay the following fees when required by this standard
    1) Application fee for initial applications required by 64802.05: $XXX
    2) Application fee for filings required by 64802.10, 64802.15, or 64802.20: $XXX
    3) Application fee for filings required by 64802.25: $XXX
    4) Annual fee as required by H&SC 100860.1.(a): $XXX
    5) Onsite assessments, whether conducted by ELAP or an approved third-party will be billed for the following costs:
        A) Travel including air/rail; rental car; hotel at receipted costs
        B) Mileage at federal rate for the year the on-site conducted
        C) Up to 24 hours at the prevailing hourly charge for on-site assessment preparation
        D) The hours taken to conduct the on-site assessment
        E) Up to 16 hours to submit the final assessment report and evaluate the laboratory's submission

Article 5. Quality System Standards

§64808. Quality System Standards

§64808.00

a) Laboratories seeking or holding accreditation shall comply with the quality management system as identified in b) through i).
b) Each laboratory shall have a quality manual formatted and with contents as follows
   1) TNI, 2016, Rev. 2.1 Volume 1, Module 2, Section 4.2.8.3 a) through l), except e), and g);
   2) TNI 2016, Rev. 2.1 Volume 1, Module 2, section 4.2.8.4 a) through r).
   3) The laboratory must have a procedure in the quality manual and shall conduct internal audits. The audits may be scheduled as necessary however, shall be completed by the end of each 12-month portion of accreditation.
c) Laboratories are to adopt all quality assurance and quality control procedures; and criteria as specified in appropriate federal or state regulation; or in the federal or state regulatory approved methods the laboratory is accredited for.
d) Incorporate the contents of TNI, 2016, Rev. 2.1, Volume 1, Modules 3 through 7 (as appropriate for the test method) only where the test method or federal, state, and local regulation are silent on the requirement. In all cases requirements found in regulation or methods approved by regulation supersede requirements found in TNI, 2016, Rev. 2.1 Modules 3 through 7.
e) The laboratory shall have Standard Operating Procedures (SOP) for all the analytical methods the laboratory is seeking or holding accreditation. The format for all analytical SOPs shall contain discussion on the topics found in TNI, 2016, Rev. 2.1, Volume 1 Module 2, section 4.2.8.5.f).i) through xxiii. The SOP shall designate if any topic is not applicable to the method.
f) The laboratory is to employ the requirements in TNI, 2016, Rev. 2.1 Volume 1, Module 2 sections 5.5; 5.8; and 5.9. The quality management system shall include the requirements found in TNI, 2016, Rev. 2.1 Volume 1, Module 2, section 5.7 if any laboratory staff conduct sampling, even if on a temporary basis.
g) The laboratory shall incorporate data integrity training per TNI 2016, Rev. 2.1 Volume 1, Module 2, section 5.2.7. The training shall include ethics and ethical behavior training. The frequency shall be at least equal to the requirement in section 64812.00.(c).
h) Any section within the TNI, 2016, Rev. 2.1 standard that relates to the operation of a calibration laboratory are not applicable to this standard.
i) All items that are Notes in the TNI, 2016, Rev. 2.1 standard are not applicable or enforceable per the statement at the end of Volume 1, Module 2, section 1.2.

§64808.05 Analytical Methods

a) Laboratories shall use those analytical methods approved by federal or state regulations, or as required by a state regulatory agency under its statutory or regulatory authority.

b) Laboratories may modify any approved method, but shall do so only as allowed by federal or state regulations. Laboratories may also seek Alternate Test Procedure approval as allowed by 40CFR Part 136.5.
c) If a regulatory agency, under its statutory or regulatory authority requires a method not already approved, or needs to modify an existing approved method outside of that allowed by federal or state regulations, then any laboratory seeking to be accredited for that method shall demonstrate their capability to perform the method by providing the demonstrations as stated in TNI 2016, V1M2 section 5.4.5. The demonstrations shall show that the laboratory meets all specified data quality requirements within the method.
d) If a laboratory, in response to c) above, wishes to be accredited for a method that it has developed, then the laboratory must provide all information required by TNI 2016, V1M2 section 5.4.3 as well as the demonstrations as stated in TNI 2016, V1M2, section 5.4.5. The laboratory shall provide to ELAP at the time of application, a complete copy of the method including all required data quality procedures and data quality criteria.

§64808.10 Onsite assessments of 64808.00

a) All on-site assessments will be conducted in accordance with the requirements found in General Requirements for Accreditation Bodies Accrediting Environmental Laboratories 2009 Rev. 0.1 V2M3 Section 6.
b) As allowed by Health and Safety Code section 100837, the laboratory may select a recognized third-party assessment organization. To be recognized, any third-party assessment organization shall possess any of the following
    1) Training certificates for Basic Assessor as issued by TNI. The possession of a training certificate for TNI 2016, Rev. 2.1, Volume 1, Module 6 is required to assess under this module.
    2) An approved assessor for a non-governmental accrediting body with evidence of training in ISO 17025:2005 or ISO 17025-2017.
    3) An approved assessor for the federal Department of Defense or Department of Energy.
c) All assessments must be conducted within the 12th month to 20th month of accreditation.

64808.15 Service Transparency

a) Within three (3) years of the adoption of these regulations, ELAP shall conform to the standards found in TNI 2016, Rev. 2.0 (a.k.a. TNI 2009, Rev. 0.1). ELAP may opt to conform to the standards found in ISO 17011:2017. If it does, then it shall also undergo assessment against the standard by a competent assessment organization.

Article 6. PT Study Requirements

§64810 PT Study Requirements.

a) Laboratories seeking or holding ELAP accreditation shall analyze PT samples applicable for the Field(s) of Accreditation cited in the application or on the accreditation.
b) All laboratories shall comply with H&SC 100870.(d) including use of providers meeting current TNI standards; payment of any fees charges; and the release of study results directly to ELAP.
c) The following table cross-references Fields of Accreditation matrices with Fields of Proficiency Testing matrices

Field of Proficiency Testing Matrix	Field of Accreditation Matrix
Drinking Water	Drinking Water
Non-Potable Water	Aqueous and Saline/Estuarine
Solids	Solids
Oil and Solvent	Non-Aqueous Liquid

d) All laboratories shall select PT samples that match the method/technology-analyte within the matrix cross reference above for which the laboratory is seeking or hold accreditation
e) PT results submitted for initial accreditation under 64802.05 above shall have a closing date of the study more than 6 months prior to the application date.
f) Laboratories accredited under ELAP accreditation shall meet the following.
    1) Accredited laboratories shall analyze PT samples within the first 12 months from the date of issue of the accreditation or renewed accreditation and achieve acceptable results for all PT Fields of Proficiency Testing analyzed. If any result is marked unacceptable then the laboratory shall obtain samples from the next available PT sample study set. If any result from the second set is also unacceptable then the laboratory is subject to revocation per H&SC 100850.(b).(1).
    2) Accredited laboratories shall within the second 12 months of accreditation but before 1 month from the stated expiration date analyze and achieve acceptable results for all PT Fields of Proficiency analyzed. If a second set is necessary, it must be completed and results available prior to 1 month from the stated expiration date. A failure to achieve acceptable results in the second set or a failure to provide results prior to 1 month from the expiration date shall be grounds for denial of that Field(s) of Accreditation per H&SC 100850.(b).(1)

Article 7. Laboratory Personnel Requirements

§64812.00 Personnel Training

a) Laboratories shall establish a training program for all personnel and assure that those designated as Technical Manager and Quality Manager meet any educational, experience; or certificate requirements for each position as found in 64812.05 or 64812.10 respectively.
b) The training program shall cover the test methods for which the laboratory is accredited. It may be a combination of internal or external provided programs and may include those taken in order to maintain any certificates.
c) The training program shall include a data integrity component meeting the requirements of TNI 2016, Rev. 2.1, Volume 1, Module 2, section 5.2.7. The training shall be given annually to all laboratory personnel. As evidence of the training, all laboratory personnel shall sign an agreement to conform to the laboratory's data integrity procedures and ethics policy.
d) The laboratory shall include in its training program defined Demonstrations of Capability as required by the federal or state regulatory approved method. If the method is silent then the requirements of section 1.6.1 as found in TNI 2016, Rev. 2.1, Volume 1, Modules 3 through 7 (as appropriate for the test method) shall be followed.

§64812.05 Technical Manager Qualifications.

a) All laboratories shall identify at least one person as a Technical Manager. As allowed in 64800.(a).(11), the Laboratory Director is identified as a Technical Manager.
b) Those person(s) identified as Technical Manager(s) shall comply with the following educational and experience requirements, except water or wastewater treatment plant laboratories seeking or holding accreditation for any Field of Accreditation associated with analyses required under Section 4025 of the Health and Safety Code, or Section 13176 of the Water Code.
    1) Possess a Baccalaureate degree in chemistry, biochemistry; biology; microbiology; natural sciences; physical sciences; environmental science; sanitary engineering; or chemical engineering.
    2) Have three (3) years' experience in the analysis of samples in an environmental laboratory prior to be designated as a Technical Manager.
        A) Possession of a Master's degree in any of the fields cited in (b).(1) above may be substituted for one (1) year of experience.
        B) Possess of a Doctoral degree in any of the fields cited in (b).(1) above may be substituted for two (2) years of experience.
c) Excepted laboratories may fulfill the requirements for Technical Manager by the Technical Manager possessing a Laboratory Analyst or Water Quality Analyst Certificate from the California Water Environment Association (CWEA) or the California-Nevada Section of the American Water Works Association (CA-NV/AWWA). The minimum grade of the above certificate acceptable shall be based on the Field(s) of Accreditation as noted in the conversion table set out below:

Field of Accreditation Method/Technology under Matrices Drinking Water and Non-Potable Water	CA-NV AWWA water quality analyst certificate	CWEA laboratory analyst certificate
All microbiological methods/All technologies **All solids methods/all technologies** **Biochemical Oxygen Demand (BOD) including the carbonaceous version (cBOD)**	I	I
All methods/titrimetric technologies **All methods/specific ion electrode technologies** **All methods/colorimetric technologies**	II	II
All methods/ion chromatography **All methods/flame atomic absorption** **All methods/graphite furnace atomic absorption**	III	III
All methods/all chromatography technologies including those using mass detectors **All methods/ICP** **All methods/ICPMS**	IV	IV

d) All Laboratory Directors of laboratories accredited by ELAP as of the adoption date of these regulations shall be exempt from meeting the requirements of (a) or (b) above.

§64812.10 Quality Manager Qualifications

a) Laboratories shall identify a person as the Quality Manager. As allowed under 64800.(a).(11), the Quality Manager may be the same person identified as the Technical Manager and/or the Laboratory Director.
b) The Quality Manager is to possess knowledge of the quality systems associated with the test methods for which the laboratory is accredited. The evidence shall be either training received or experience with the test method(s).

§64812.10 Changes in Persons Identified as Technical Manager

a) Laboratories shall notify ELAP if there is a permanent change in Technical Manager. The notification shall include the identity of the new person; the effective date of the change; and evidence of their compliance with any qualification requirements.
b) If the replacement will take longer than 90 days due to required hiring procedures then the laboratory shall notify ELAP in writing with a projected timeframe for hiring the replacement.
c) The laboratory shall notify ELAP In cases where the Technical Manager is to be absent for

more than ~~60~~45 days.

Article 8. Notification and Reporting

§64814. Notification and Reporting.

a) Laboratories accredited for Fields of Accreditation where the Matrix is Drinking Water shall conform to the following reporting and notification requirements.
b) Laboratories reporting bacterial quality results as required by Title 22, California Code of Regulations, Section 64423.1 shall submit a bacterial monitoring report including information required in Title 22, California Code of Regulations, Sections 64423.1(c)(2) and (c)(3) directly to the Department of Drinking Water.
c) The laboratory shall notify a water supplier's designated contact person as soon as possible, but within 24 hours, and record the method and time of notification or attempted notification, whenever any of the following occur:
    1) The presence of total coliforms, fecal coliforms, or Escherichia coli (E. coli) is confirmed.
    2) A bacterial sample is invalidated due to an interference as defined in Title 22, California Code of Regulations, Section 64425(b).
    3) A nitrate sample exceeds the MCL.
d) If the laboratory is unable to make direct contact with the supplier's designated contact person within 24 hours, pursuant to subparagraphs c).1) or (c).3, the laboratory shall immediately notify the Department of Drinking Water and provide a written record of the time and method of attempted contacts.
e) All analytical results conducted pursuant to Title 22, California Code of Regulations, Chapter 15, Domestic Water Quality and Monitoring, shall be reported directly to the Department of Drinking Water electronically using the Electronic Deliverable Format as defined in The Electronic Deliverable Format [EDF] Version current at the time reporting is made and Data Dictionary concurrent with that version, by the 10th day of the month following the month in which the analyses were completed.
f) Whenever a laboratory is requested by a water supplier, pursuant to Title 22, California Code of Regulations, Section 64425(a)(2), to submit evidence invalidating a sample due to laboratory error, the laboratory shall provide the supplier with information which shall include:
    1) A letter from the Laboratory Director to the water supplier agreeing to the invalidation request by reason of laboratory accident or error;
    2) complete sample identification, laboratory sample log number (if used), date and time of collection, date and time of receipt by the laboratory, date and time of analysis for the sample(s) in question;
    3) complete description of the error alleged to have invalidated the result(s);
    4) copies of all analytical, operating, and quality assurance records pertaining to the incident in question; and
    5) any observations noted by laboratory personnel when receiving and analyzing the sample(s) in question.
g) If a laboratory determines to send all or portions of samples to another laboratory, the following requirements shall be met:
    1) The receiving laboratory shall be informed of the analytical method(s), the

sample collection date, state of chemical or thermal preservations, and the data quality requirements.

2) The submitting laboratory shall notify the agency that sent the sample(s) that another laboratory is conducting the analysis and provide assurances that all pertinent information was communicated to the other laboratory. This notification may be made in advance or at least when the first set of samples is sent to the receiving laboratory. If applicable, the notice may be for all future samples received.
3) In no case can there be exceedances of federal or state requirements for sample holding times, unless the agency submitting samples agrees to this in advance.
4) In any case where there is question as to the veracity of the analytical results, the laboratory that actually performed the test is the laboratory of record and may be subjected to any pertinent adverse action as a result of any investigations by authorized agencies.
5) ~~In any arrangements between laboratories involving the transfer of samples, or portions of samples, t~~The submitting laboratory ~~issuing the report of analyses~~ shall include the original of any report(s) prepared by all ~~other~~ receiving laboratories who received the sample or portions of the sample ~~who are party to the agreement~~.

Article 9. Trade Secrets

§64816. Trade Secrets.

1. If a laboratory identifies information provided to the ELAP as a trade secret, ELAP shall not release such information unless:
    a. the release is authorized under state or federal law; and
    b. ELAP has notified the laboratory of the impending release. Such notification shall be at least ten days prior to releasing any information identified as a trade secret, stating the name of the party requesting the information, the reason for the request, the authority to release this information, and the date the information will be released.

Article 10. Sale or Transfer of Ownership of a Laboratory

§64818. Sale or Transfer of Ownership.

1) A certificate shall be voided by operation of law if one or more of the following occurs.
   a) An original Owner fails to notify the ELAP, in writing, within 15 days after a change in ownership.
   b) A new Owner relocates the laboratory within 90 days of assuming ownership.
   c) If more than half the number of laboratory persons either quit or are terminated and replaced by a new Owner within 90 days of assuming ownership.
   d) If a new Owner submits an application to alter the laboratory's certificate as issued to the prior Owner by the addition of any Subgroup within any Field of Testing.
2) A new Owner of a laboratory shall notify the ELAP, in writing, within 15 days after the sale or transfer of ownership and provide, at minimum, the following information.
   a) The name(s) of the new Owner(s).
   b) The date of sale or transfer of ownership.
   c) The name(s), education and experience, as specified in Section 64812.05.(b); or voluntary laboratory certificate grade as specified in Section 64812.05.(c), of the person(s) designated as Technical Manager(s).
   d) The name of the person designated as Quality Manager.
   e) The name(s) of all Technical Manager(s) and/or Quality Manager who quit, or were terminated and replaced.
   f) A statement that there will be no changes in laboratory location, or in the certificate issued to the prior Owner(s) within 90 days of assuming ownership.
   g) A statement that all equipment, method, and quality assurance practices will not change within 90 days of assuming ownership.
   h) The notice shall be signed by one or more of the new Owner(s), or their Agents.
3) New Owners that comply with the provisions of (b) above shall have use of the certificate issued to the prior Owner for a period of ninety days commencing with the date of the ELAP's notice of receipt of the information supplied by the new Owner.
   a) The certificate number and the laboratory name appearing on the certificate shall remain the same.
   b) The new Owner shall display, and provide a copy with all data reports, the ELAP's notice recognizing the sale or transfer of ownership.
4) To obtain the use of the certificate to its original expiration date, the new Owner shall request such use in writing, and the laboratory shall be subjected to, and pass the following, within the 90 days use period granted by the ELAP.
   a) An onsite assessment to determine compliance with 64808; and
   b) Successful completion of PT samples in accordance with 64810.

State Water Resources Control Board
June 18, 2019 – Item 18
Executive Director's Report

DIVISION OF WATER QUALITY

2019 Ocean Plan Review: Division of Water Quality staff is preparing the draft Staff Report and Work Plan for the 2019 Review of the Water Quality Control Plan for Ocean Waters of California (2019 Ocean Plan Review) and anticipate releasing these documents for public comment on June 24, 2019. The 2019 Ocean Plan Review includes twenty-one discrete issues to prioritize and consider for future planning projects, such as amending the Ocean Plan to include tribal beneficial uses, revising shellfish harvesting beneficial uses and bacterial objectives, and addressing impacts of ocean acidification and hypoxia on California's coastal waters.

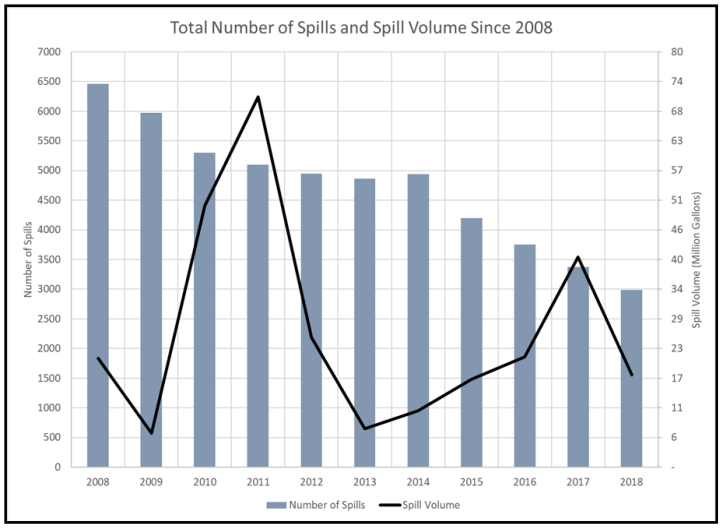
Agriculture Program Fees Structure: The Irrigated Lands Regulatory Program (ILRP or Agriculture Program) has been funded by a per-acre fee schedule since 2003. Seven options were evaluated, but the per acre rate was kept as the selected schedule. At the September 19, 2017 Board Meeting, stakeholders expressed concerns with the existing per acre fee structure of the ILRP. At that meeting, the Water Board directed staff to develop and evaluate potential alternatives to the current per-acre fee structure for the Agriculture Program. Staff has been meeting regularly with stakeholders to discuss alternative methodologies for assessing fees to meet budgetary requirements.

Water Board staff presented several concepts to stakeholders in February 2019. Following public comment on those concepts, a singular revised concept was presented at a public stakeholder meeting on May 21, 2019. The proposed concept includes a simple matrix of whether a grower is required to develop an irrigation and nitrogen management plan or pesticide/toxicity management plan, or both, and whether a grower is a member of a third-party group. Water Board staff is refining definitions for the concept and collecting information from the Regions to determine how many acres would fall in each category. Water Board staff will be hosting another stakeholder meeting on June 21st to present revised definitions and anticipated fees for each of the categories. The revised fee schedule is anticipated to be presented to the Water Board for adoption in September.

Oil and Gas Monitoring: The Division of Oil, Gas and Geothermal Resources (DOGGR) and the State Water Board co-hosted a public comment hearing on June 5, 2019, in Santa Maria for a proposed aquifer exemption in the Cat Canyon Oil Field. DOGGR, with the preliminary concurrence of the State Water Board, is considering a proposal to exempt the oil-bearing portions of the Sisquoc and Monterey Formations in the Cat Canyon Oil Field, located in Santa Barbara County near the town of Orcutt, CA. Subject to approval by the United States Environmental Protection Agency, the proposed aquifer exemption would allow the State, in compliance with the federal Safe Drinking Water Act, to approve Class II injection into the identified area either for enhanced oil recovery or for injection disposal of fluids associated with oil and gas production.

State Water Board Sanitary Sewer Overflow Reduction Program Annual Update: In 2006, the State Water Board established the statewide Sanitary Sewer Overflow Reduction Program and adopted the first statewide Sanitary Sewer System General Order providing consistent regulation of publicly owned sanitary sewer systems. Through the General Order, the State Water Board regulates local system management and sewage spills of approximately 100,000 miles of pipelines, pump stations and auxiliary facilities of 1,100 publicly owned systems. The Regional Water Boards enforce local agency compliance through issuance of formal and informal enforcement actions. Sewage spills to waters of the United States are a Clean Water Act violation and subject to third party lawsuits.

As shown by the declining bars in the graph below, implementation data from the existing statewide General Order indicates a reduction of the number of spills to waters of the United States of approximately 3,500 since 2008.



Many collection systems that used to severely spill sewage are now well-performing systems, due to:

- Proactive local program management;
- Well established collection system operator certification and training programs; and
- Regional Water Board enforcement and third-party involvement.

The above graph also indicates continued spikes of sewage spill volumes patterned around fluctuating weather patterns and site-specific factors. Current data from May 1, 2018 through April 30, 2019, as shown in the table below, illustrates the variation in sewage spills throughout the State:

Annual Data from the California Integrated Water Quality System (CIWQS) from May 1, 2018 through April 30, 2019						
Regional Water Boards	Miles of Regulated Systems	Number of Systems with Spill	Number of Spill Events	Total Spill Volume of (gallons)	Average Number of Spills per 100 miles	Average Spill Volume per 100 miles (gallons)
North Coast	1,708	32	81	1,418,682	12.94	97,464
San Francisco Bay	15,624	96	931	6,910,806	14.66	98,557
Central Coast	3,461	49	120	183,804	8.42	7,172
Los Angeles	16,063	64	327	11,200,366	6.83	37,688
Central Valley	17,312	121	1,359	2,313,789	13.95	82,832
Lahontan	3,052	22	67	187,487	8.54	26,415
Colorado River	2,049	9	18	41,570	16.36	9,611
Santa Ana	10,236	38	105	1,195,878	3.06	42,131
San Diego	9,269	30	136	204,942	2.78	3,483
Total	78,773	461	3,144	23,657,324		

This most recent data indicates the number of sanitary sewer spills are concentrated in our larger regions, such as the San Francisco Bay region, the Central Valley region, and the Los Angeles region. These regions have some of the largest and/or oldest collection systems in the State; combined, the three regions account for 62 percent of the total miles of regulated public systems, and 83 percent of sewage spills during the past year.

Data and collected information indicate that the three major factors contributing to continued spills include:

- Aging infrastructure;
- Poor asset management planning account for increased population growth and climate change-related factors; and
- Lack of local collaboration between sanitary and storm drain programs.

Information gathered by staff indicates that well-performing systems:

- Have proactive local governing boards providing the necessary resources for use of updated technology, personnel training programs and necessary capital improvement projects;
- Are staffed with certified operators receiving up-to-date training for ongoing certification; and
- Have proactive Spill Response Programs with established local sanitation, storm drain and drinking water agency collaboration.

Division of Water Quality staff is developing a proposed Sanitary Sewer System General Order reissuance. The proposed reissuance will update the statewide regulatory requirements per current regulations, policies and resolutions, with a primary focus on the reduction of spill volume and continued reduction of spill occurrences. In April 2019, staff conducted five publicly noticed stakeholder meetings in San Diego, Sacramento, Chino, Redding, and Fresno. Staff also continues to have focused stakeholder meetings with individual stakeholder groups and is facilitating meetings for discussion among stakeholder groups.

During outreach efforts, staff heard common feedback from various stakeholders regarding the proposed General Order reissuance:

- The existing statewide General Order is outdated and does not contain requirements that reflect current system management and asset management practices;
- Many (not all) local boards will not provide necessary resources for their sanitary sewer system management unless requirements are in a Water Board Order;
- State Water Board should require a level of certification of sewer system management personnel, similar to all other Water Boards-issued permits for discharges of wastewater, recycled water, drinking water, and storm water requiring certified professional to conduct operational and reporting permit requirements; and
- System-specific asset management planning requirements, scaled to the system size of the local agency, should be required.

Division of Water Quality staff has started developing a draft statewide General Order that, after proceeding through the public review and the Board adoption process, is intended to replace the existing statewide General Order. (The current Order remains in place until a new reissued Order is in effect.) Staff proposes to release a draft statewide General Order reissuance for public review by the end of the 2019 calendar year.

Further information on the status of the Statewide Sanitary Sewer Overflow Program, and current proposed Order reissuance efforts, can be found on the State Water Board Sanitary Sewer Overflow Reduction Program webpage at:
https://www.waterboards.ca.gov/water_issues/programs/sso/#news.

To receive further information regarding the proposed Order reissuance, please subscribe to the State Water Board Lyris list at:
https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html (Select the “Sanitary Sewer Overflow (SSO) Reduction Program Order Review” under the “Water Quality” heading.)

Irrigated Lands Regulatory Program Update: The Irrigated Lands Regulatory reports are included in Appendix A of this report.

California Water Quality Monitoring Council: Workgroups and Representatives

The table below contains a list of CASA members who participate in the CWQMC workgroups. Additional representatives are needed. See gaps in representation, below. Please contact **Shelly Walther** (swalther@lacsd.org) or **Jared Voskuhl** (jvoskuhl@casaweb.org) if you can help represent CASA on these workgroups.

California Water Quality Monitoring Council			
Workgroup	**Representatives**	**Agency**	**E-mail**
Bioaccumulation Oversight Group	Carolyn Ginno	City of San Diego	cginno@sandiego.gov
California CyanoHAB Network	Josh Westfall	LACSD	jwestfall@lacsd.org
California Environmental Flows Workgroup	Josh Westfall	LACSD	jwestfall@lacsd.org
California Estuary Monitoring Workgroup	Rebecca Franklin	Regional San	franklinre@sacsewer.com
California Molecular Methods Workgroup	Leslie Nanninga Yiping Cao	City of San Diego Source Molecular	lnanninga@sandiego.gov ycao@sourcemolecular.com
California Wetland Monitoring Workgroup			
California Water Quality Monitoring Collaboration Network	Amber Baylor	SOCWA	abaylor@socwa.com
Data Utilization Workgroup	Josh Westfall	LACSD	jwestfall@lacsd.org
Inland Beaches Workgroup	Rebecca Franklin	Regional San	franklinre@sacsewer.com
Healthy Watersheds Partnership	Elizabeth Sala	West Basin MWD	elizabeths@westbasin.org
Ocean and Coastal Ecosystem Health	Amber Baylor	SOCWA	abaylor@socwa.com
Safe Drinking Water Workgroup	Eric Hansen	Silicon Valley Clean Water	ehansen@svcw.org
Groundwater Ambient Monitoring and Assessment Program			
Safe-to-Swim Workgroup	Rebecca Franklin	Regional San	franklinre@sacsewer.com
Trash Monitoring Workgroup	Shelly Walther	LACSD	swalther@lacsd.org

Background on the CA WQ Monitoring Council

The California Water Quality Monitoring Council was established in 2008 to comply with California Senate Bill 1070 (Kehoe, 2006). Under SB 1070, the Monitoring Council develops recommendations to the Secretaries of Cal/EPA and the Natural Resources Agency to improve the coordination and cost-effectiveness of water quality and ecosystem monitoring and assessment, enhance the integration of monitoring data across departments and agencies, and increase public access to monitoring data. The scope of monitoring considered by the Monitoring Council is water quality and associated ecosystem health, which includes surface waters (streams, rivers, lakes, wetlands, and the coastal zone), their related ecosystems, wildlife populations and habitats, drinking water, and groundwater. Actions of the Monitoring Council include making recommendations to the Cal/EPA Agency Secretary for action by individual boards, departments, commissions and conservancies, and proposing legislative solutions.

The Monitoring Council and staff recently realigned their strategy to consider Assembly Bill 1755 (Dodd, 2016). In 2018, the Council approved their top 5 areas of value and expertise to the State, which emphasized their ability to recommend data thresholds, and emerging methods. Specifically, the Council:

1. Can determine if water quality monitoring programs adequately address management questions in an efficient and cost-effective manner.
2. Establishes guidance on data quality and method consistency for established monitoring programs across the state.
3. Can identify where data interpretation thresholds are needed and help provide recommendations on what those thresholds could be.
4. Can identify emerging methods and technologies and offer guidance on how those should be developed to answer current and future management questions.
5. Can link the disparate monitoring programs from local and regional entities that conduct the majority of monitoring across the state.

In further realigning the Council's strategy, in March 2019, the Council finalized a charter which defines responsibilities of the Secretary for Cal/EPA in overseeing the implementation efforts of the Monitoring Council, Council governance, strategy implementation, staffing, etc.

California Water Quality Monitoring Council

The Healthy Watersheds Partnership is conducting a literature review so we can create a resource/library on the website. Specifically we are looking for literature pertaining to the following topics:

- defining watershed and stream "health"
- data imputation methods
- data aggregation and reduction
- determining relative watershed health
- climate change impacts to water quality
- climate change impacts to beneficial uses

If you are aware of any literature related to these topics, we ask that you send us information about it by filling out the **Google form.**Thank you!

Sincerely,

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California State Water Resources Control Board
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Final WQC for Cyanotoxins Released

Chris Hornback

Per our discussion on today's committee call...EPA, moments ago, notified us that it had released its recommended water quality/swimming advisories for microcystins and cylindropermopsin.

EPA's message is below. We are reviewing and will provide further details.

I am pleased to announce that EPA has issued final ***Recommended Recreational Ambient Water Quality Criteria or Swimming Advisories for two Cyanotoxins, Microcystins and Cylindrospermopsin***. The Agency has identified recommended concentrations of these cyanotoxins at or below which human health is protected while swimming or participating in other recreational activities in and on the water. States, territories, and authorized tribes can consider adopting these recommended criteria into their water quality standards and using them for Clean Water Act purposes. Alternatively, they can use these same values as the basis of swimming advisories for public notification purposes at recreational waters. The recommended criteria or swimming advisories are based on peer-reviewed, published science and methods.

EPA is also providing information on the latest scientific knowledge about human health effects from exposure to cyanobacteria, discussion of other governmental guidelines for recreational waters, and incidents involving exposure of pets and other animals to cyanotoxins. More information on these recommendations: https://www.epa.gov/wqc/recreational-water-quality-criteria-and-methods.

EPA is publishing the recommendations for microcystins and cylindrospermopsin, two of the toxins associated with cyanobacterial HABs, under Clean Water Act section 304(a). Learn more about cyanobacterial HABs and how the EPA, states, territories and tribes are working to address them on the newly redesigned EPA Cyanobacterial HABs website. EPA updated and reorganized our online information about cyanobacterial harmful algal blooms (CyanoHABs) in water bodies, creating a new website dedicated to scientific information, EPA tools, and collaborative work on cyanoHABs in U.S. waters.

On the updated website, EPA has also published new infographics that state and local governments can use to communicate basic information about HABs to the public. The infographics highlight how a HAB may affect both people and animals, and provide information concerning how to identify and respond to a potential bloom. Downloadable and printable versions of the infographics are available at https://www.epa.gov/cyanohabs/infographics-help-educate-public-habs-basics; one as a more detailed poster for display and another as an abbreviated handout. State, tribal and local governments may also customize the infographics by adding their logo and website address or telephone number.

If you have any questions please contact Jamie Strong at Stong.Jamie@...

Best,

Elizabeth (Betsy) Behl, Director

Health and Ecological Criteria Division, 4304-T

Office of Science and Technology, Office of Water

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
CEMETERY AND FUNERAL BUREAU
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Advisory Committee
May 21, 2019

DRAFT LANGUAGE
LICENSURE AND REGULATION OF ALKALINE HYDROLYSIS

(1) Amend Section 2310 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2310. Regulatory Charge

(a) The annual regulatory charge to be paid by every cemetery authority operating a cemetery under the Act is fixed at the sum of four hundred dollars ($400). An additional quarterly charge of eight dollars and fifty cents ($8.50) for each burial, entombment, or inurnment made during the preceding quarter shall be paid to the Bureau. If the cemetery authority performs a burial, entombment, or inurnment, and the cremation or hydrolysis was performed at a crematory or hydrolysis facility located on the grounds of the cemetery and under common ownership with the cemetery authority, the total of all additional charges shall be eight dollars and fifty cents ($8.50).

(b) The annual regulatory charge to be paid by every licensed crematory is fixed at the sum of four hundred dollars ($400). An additional quarterly charge of eight dollars and fifty cents ($8.50) for each cremation made during the preceding quarter shall be paid to the Bureau.

(c) The annual regulatory charge to be paid by every licensed hydrolysis facility is fixed at the sum of one thousand dollars ($1000). An additional quarterly charge of eight dollars and fifty cents ($8.50) for each hydrolysis made during the preceding quarter shall be paid to the Bureau.

Note: Authority cited: Sections ~~9630~~ 7606, 7712.10, 7730.10 and ~~9765~~ 7730.11, Business and Professions Code. Reference cited: Sections ~~9765~~ 7730.10, 7712.9 and ~~9786~~ 7730.11, Business and Professions Code.

(2) Amend Section 2311 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2311. Filing Fee

(a) An initial filing fee of four hundred dollars ($400) shall accompany an original application for a certificate of authority to operate a cemetery. In the event the expenses

of the bureau's investigation, computed at the rate of one hundred dollars ($100) per day per person, shall exceed this amount, the applicant shall, within five (5) days after request therefore, deposit such additional sums as deemed necessary by the bureau provided that the total sum shall not exceed nine hundred dollars ($900).

(b) An initial filing fee of four hundred dollars ($400) shall accompany an original application for a crematory license. In the event the expenses of the bureau's investigation, computed at the rate of one hundred dollars ($100) per day per person, shall exceed this amount, the applicant shall, within five (5) days after request therefore, deposit such additional sums as deemed necessary by the bureau provided that the total sum shall not exceed nine hundred dollars ($900).

(c) An initial filing fee of one thousand dollars ($1000) shall accompany an original application for a hydrolysis facility. In the event the expenses of the bureau's investigation, computed at the rate of one hundred dollars ($100) per day per person, shall exceed this amount, the applicant shall, within five (5) days after request therefore, deposit such additional sums as deemed necessary by the bureau provided that the total sum shall not exceed fifteen hundred dollars ($1500).

Note: Authority cited: Sections ~~9630, 9717~~ 7706, 7639.04, 7730.11 and ~~9783~~ 7653, Business and Professions Code. Reference cited: Sections ~~9717~~ 7653 and ~~9783~~ 7712.5, Business and Professions Code.

(3) Add Section 2326.05 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326.05. Application for Hydrolysis Facility License

Application for a hydrolysis facility license shall be filed on bureau form 23-HF (01/20), Application for Hydrolysis Facility License, which is hereby incorporated by reference, at the principal office of the bureau. In addition to the payment of the fees required by section 2311 of these rules, each application shall be accompanied by the following:

(a) A copy of:

(1) Articles of Incorporation, if a corporation, certified by the Secretary of State, or partnership agreement, if a partnership.

(2) Land use or zoning permit certified by the city or county.

(3) Permit to operate a hydrolysis facility issued by the local department of public health.

(4) Deed, lease or other instrument which provides the applicant with the right to possess and use the property where the business will be located.

(5) Approval of hydrolysis chamber issued by State Department of Public Health.

(b) A statement signed by the applicant if the applicant is an individual; signed by the majority and verified by one (1) of the directors, if the applicant is a corporation; or signed and verified by a majority of the partners, if applicant is a partnership, which statement shall set forth:

(1) A complete and detailed financial statement showing assets, liabilities, and reserves.

(2) A statement of proposed plan of operation which shall include the type of selling.

(3) A full, true, and complete copy of the standard agreement which will be used for funding of prearranged hydrolysis.

(c) Plans and specifications of the hydrolysis facility and building, which must be sufficient to allow the bureau to determine, among other things:

(1) Adequacy of storage for hydrolyzed and unhydrolyzed remains.

(2) Such other matters as the bureau may require by written notice to the applicant.

Note: Authority cited: Sections 7606 and 7639.04, Business and Professions Code. Reference: Sections 7639, 7639.04, 7639.06, and 7639.08, Business and Professions Code.

(4) Amend section 2326.1 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326.1. Managers

(a) Each cemetery for which a new certificate of authority is required shall be operated under the supervision of a cemetery manager qualified as such by the bureau. If the applicant for a new certificate of authority is a limited liability company, the cemetery manager shall not have an ownership interest as a member of the limited liability company.

(1) The applicant for a new certificate of authority, in addition to the requirements of section 2326, will designate the cemetery manager. There shall be submitted with the application a written statement from the cemetery manager demonstrating that he or she has two (2) years' experience in the cemetery business, or equivalent experience, which experience shall be commensurate with the size, type, and scope of the proposed activities of the cemetery authority. Additional cemetery managers who have been qualified and examined by the bureau may be designated by the applicant and can succeed the cemetery manager in the event of death, resignation, disability, voluntary surrender of license, or other inability to perform the required duties, as provided for in Business and Professions Code section 7653.6.

(b) Each crematory for which a crematory license is required shall be operated under the supervision of a crematory manager designated by the applicant and qualified as such by the bureau. Additional crematory managers who have been qualified and examined by the bureau may be designated by the applicant and can succeed the crematory manager in the event of death, resignation, disability, or other inability to perform the required duties, as provided for in Business and Professions Code section 7713.

(c) Each hydrolysis facility for which a hydrolysis facility license is required shall be operated under the supervision of a crematory manager designated by the applicant and qualified as such by the bureau. Additional crematory managers who have been qualified and certified by the bureau may be designated by the applicant and can succeed the crematory manager in the event of death, resignation, disability, or other inability to perform the required duties, as provided for in Business and Professions Code section 7712.11.

(1) For the purpose of subsection (c) certification shall mean a written statement from the hydrolysis manufacturer demonstrating that the crematory manager has received the proper training for the operation of the hydrolysis chamber and the proposed activities of the licensed hydrolysis facility.

Note: Authority cited: Sections 7606 and 7653, Business and Professions Code. Reference: Sections 7613.4, 7613.5, 7652.8, 7653, 7653.6, 7712.10, 7712.11 and 7713, Business and Professions Code.

(5) Add Section 2329.1 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2329.1 Abandonment of Application for Hydrolysis Facility License

An application shall be deemed abandoned and all fees previously paid shall be deemed forfeited if the applicant for a hydrolysis facility license refuses or fails to

comply with the provisions of Section 2326.05 within one (1) year from the date of written notification by the bureau of the documents or information required to be submitted. The applicant shall be notified in writing of such action. Any application so abandoned may not be reinstated; however, the applicant may file a new application accompanied by the required fees and documents.

Note: Authority cited: Section 142 and 7606, Business and Professions Code. Reference: Sections 142, 7639.04, 7639.06 and 7652.10, Business and Professions Code.

(6) Amend section 2339 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2339. Form and Content of Crematory and Hydrolysis Contracts

(a) Pursuant to Sections ~~9784~~ 7639.10 and 7712.6 of the Code, every contract shall be in writing and shall contain all of the agreements of the parties. Such a contract shall clearly state the following:

(1) The total contract price.

(2) Terms of payment.

(3) An itemized statement of charges including, as applicable, the following:

(A) Charges for preparation of the body.

(B) Charges for storage.

(C) Charges for permits.

(D) Charges for cremation or hydrolysis and disposition.

(E) Charges for transportation.

(F) Any other charges, which shall be particularized.

(b) Any contract, arrangement or plan for the prearrangement of cremation or cremation services or hydrolysis or hydrolysis services shall provide in sufficient detail the manner in which funds paid on account of such arrangements are to be handled including, but not limited to, the following:

(1) The name or names of the persons, firm or entity with custodial responsibility for such funds.

(2) The manner in which such funds and earnings thereon are held.

(3) A provision that any such prearrangement is wholly revocable at any time and that the person establishing such arrangement may recover funds and earnings thereon. Such funds, less an amount not to exceed ten (10) percent of the earned income as a revocation fee, shall be furnished to the person establishing such arrangement within fifteen (15) days of receipt of a notice of revocation as provided in the prearrangement contract.

Note: Authority cited: Sections ~~9630~~ 7606 and 7639.08, Business and Professions Code. Reference: Sections ~~9784~~ 7639.10 and 7712.6, Business and Professions Code.

(7) Amend Section 2340 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2340. Maintenance of Records

(a) Each crematory licensee, each licensed hydrolysis facility, and each holder of a certificate of authority who operates a crematory or a hydrolysis facility shall keep a record of all remains cremated or hydrolyzed and such record shall contain the following:

(1) Name and address, if known, of the deceased.

(2) Date burial permit was issued.

(3) County issuing burial permit.

(4) Name, address, and relationship of person or persons authorizing cremation or hydrolysis and disposition.

(5) Date of the contract for cremation or hydrolysis.

(6) Date, time, and place remains were picked up or received by the licensee.

(7) Date and time of cremation or hydrolysis.

(8) Date, time, place, and type of disposition of the cremated remains or hydrolyzed remains, or name of person or entity to whom the cremated remains or hydrolyzed remains were released.

(b) Upon abandonment of the license or termination of licensure, records required by this section shall be turned over to a cemetery approved by the bureau or to the bureau.

(c) This section shall not be interpreted to require the holder of a certificate of authority to maintain a separate set of records pertaining to cremations or hydrolysis.

Note: Authority cited: Section ~~9630~~ 7606, Business and Professions Code. Reference: Sections ~~9719~~ 7653.1 and ~~9785~~ 7712.8, Business and Professions Code; and Section 8374, Health and Safety Code.

(8) Amend Section 2351 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2351. Crematory or Hydrolysis Facility Report

Each crematory and hydrolysis facility licensee shall file annually with the bureau a written report on the form prescribed by the bureau setting forth:

(a) Total number of cremations or hydrolysis made.

(b) Disposition of cremations or hydrolysis indicating the number which were:

(1) Burials at sea.

(2) Released to a cemetery authority.

(3) Released to the person or persons who authorized cremation or hydrolysis.

(4) Other dispositions (describe).

(c) The amount collected and funded for prearranged cremations or hydrolysis.

(d) The amount of funds invested in each of the investments authorized by Section 8778 of the Health and Safety Code.

(e) Each annual report by a crematory or hydrolysis facility licensee accepting funds for prearranged cremations or hydrolysis shall be accompanied by a financial statement prepared by an independent licensed certified public accountant or public accountant.

(f) Each annual report by a hydrolysis facility licensee shall also include records of the annual maintenance performed in the preceding year on the hydrolysis chamber.

Note: Authority cited: Sections ~~9630~~ 7606, 7639.06 and ~~9783~~ 7712.5, Business and Professions Code. Reference cited: Sections ~~9785~~ 7639.06 and 7712.8, Business and Professions Code; and Section 8376, Health and Safety Code.

(9) Amend Section 2370 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2370. Special Trusts

Trusts established for burial purposes pursuant to Section 8775 of the Health and Safety Code including cremation, hydrolysis, or other commodities or services furnished at the time of and in connection with such cremation, hydrolysis, or interment are under the supervision of the bureau and must comply with the following requirements:

(a) All moneys paid directly or indirectly and all securities delivered under the trust agreement or any agreement collateral thereto shall constitute the "trust corpus."

(b) None of the trust corpus shall be used for payment of commission or other expenses of trust administration.

(c) The trust agreement shall specifically set forth any expenses to be charged to the trustor out of income to the trust or any portion of the trust corpus to be retained by the trustees or cemetery authority upon revocation and a copy thereof shall be delivered to the trustor; provided, however, such revocation fee to be retained by the trustee or cemetery authority shall not exceed ten (10) percent of the trust corpus.

(d) Other than as provided in Subsection (c) hereof, the trust income shall be used solely for the purposes authorized by Section 8775 of the Health and Safety Code.

(e) Unless specific property or securities are placed in trust by the trustor, investments of these funds shall be in investments authorized by law -for example, as authorized by Health and Safety Code Sections 8751 and 8751.1 as well as Civil Code Sections 2228 through 2239 and 2261.

Note: Authority cited: Section ~~9630~~ 7606, Business and Professions Code. Reference: Section 8775, Health and Safety Code.

Assembly Bill No. 434

CHAPTER 780

An act to add Section 11546.7 to the Government Code, relating to state government.

[Approved by Governor October 14, 2017. Filed with Secretary of State October 14, 2017.]

legislative counsel's digest

AB 434, Baker. State Web accessibility: standard and reports.

Existing law establishes, within the Government Operations Agency, the Department of Technology under the supervision of the Director of Technology, who also serves as the State Chief Information Offi . Existing law provides that the department is generally responsible for the approval and oversight of information technology projects. Existing law requires the heads of state agencies and entities to appoint chief information officers, requires state agencies and entities to report certain information to the department, and further requires state agencies to take all necessary steps to achieve the targets set forth by the department in its information technology performance management framework and report their progress to the department on a quarterly basis.

This bill, before July 1, 2019, and before July 1 biennially thereafter, would require the director of each state agency or entity and the chief information officer of that state agency or entity to post on the home page of the agency's or entity's Internet Web site a signed certification that the agency's or entity's Internet Web site is in compliance with specified accessibility standards. The bill would require the director to create a standard form that each state agency's or state entity's chief information officer would be required to use to determine whether the state agency's or state entity's Internet Web site is in compliance with the specified accessibility standards.

The people of the State of California do enact as follows:

SECTION 1. Section 11546.7 is added to the Government Code, to read:

11546.7. (a) Before July 1, 2019, and before July 1 biennially thereafter, the director of each state agency or state entity, as defined in subdivision (e) of Section 11546.1, and each chief information officer appointed under Section 11546.1, shall post on the home page of the state agency's or state entity's Internet Web site a signed certification from the state agency's or state entity's director and chief information offi that they have determined that the Internet Web site is in compliance with Sections 7405 and 11135,

and the Web Content Accessibility Guidelines 2.0, or a subsequent version, published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria.

(b) The Director of Technology shall create a standard form that each state agency's or state entity's chief information offi shall use to determine whether the state agency's or state entity's Internet Web site is in compliance with the accessibility standards specified in subdivision (a).

O

FY 2019-20 WDPF Fee Schedule
Summary of Proposed Changes by Program

NOTE: The proposed changes described below are only concepts at this time and are based on the data currently available. All final changes will be described in the agenda item for the September 17, 2019 board meeting at which staff will propose the FY 2019-20 fee schedule for the Board's consideration. To be notified when the final agenda item is released and of regular stakeholder information, please be sure you are signed up for the "Fee Regulations – Water Quality" email list at:
(https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html).

Waste Discharge Requirements (WDR) – All fee categories for the WDR program will be increased by approximately 14.0 percent.

- **Statewide General Waste Discharge Requirements for Winery Process Water Treatment Systems (Winery GO)**
  DAS Fees staff is proposing a new fee schedule specific to the Winery GO that is scheduled to be adopted by the State Water Board during FY 2019-20. The proposal, based on the current iteration of the Winery GO, includes tiers based on threat to water quality and whether a discharger can comply with the hydraulic loading rate in the order. DWQ staff is continuing to meet with stakeholders which may result in changes to this fee schedule concept.

Tier	Application Fee	Annual Fee
Tier 1 Largest	$100,000	$100,000
Tier 1 Medium	$50,000	$50,000
Tier 1 Smallest	$20,000	$20,000
Tier 2	$15,000	$15,000
Tier 2 NC[1]	$20,000	$20,000
Tier 3	$5,000	$5,000
Tier 3 NC[1]	$7,000	$7,000
Tier 4	$500	$500
Tier 4 NC[1]	$2,500	$2,500
Tier 5	$500	$500

[1] NC refers to non-conforming and is for Tier 2 through 4 facilities that cannot conform with the hydraulic loading rate in the Order.

Land Disposal – No fee changes are proposed for the Land Disposal program.

Water Quality Certification (WQC) – All fee categories for the WQC program will be increased by approximately 18.3 percent, except for the Fill & Excavation application fee. Staff is proposing to keep the Fill & Excavation application fee at the FY 2018-19 level to provide stability and predictability to potential applicants that might not apply for permits or comply with

regulations if fees continue to increase and to compensate by increasing the impact area per acre multiplier by 19.1 percent.

- **EcoRestore** – DWQ staff is in discussions with the California Natural Resources Agency (CNRA) in regards to an entity-specific fee for CNRA EcoRestore projects.
- **SB 901** – DWQ and DAS staff are considering two fee schedule concepts for utility companies that are performing dredge or fill activities pursuant to SB 901 and identified in an approved Utility Wildfire Mitigation Plan (plans are approved by the California Public Utilities Commission). DWQ staff will continue discussions with industry stakeholders to determine the best option to generate the required $1.8 million in revenue.
    - Option 1: Assess a flat fee on a per project basis.
    - Option 2: Assess a flat yearly fee to each utility based on a prorated determinate (i.e., size of service area, anticipated number of future permits needed, number of transmission poles/overhead lines, etc.).

Storm Water – No fee increases are proposed for the Storm Water program.

- DAS Fees staff is proposing to amend section 2200(b)(1)(A) of the fee schedule to clarify that special districts located within a city or county that does not oversee storm water compliance for the district are required to pay the MS4 fee.

NPDES – All fee categories for the NPDES program will increase by approximately 12.4 percent.

- **California Water Code Section 13142.5(b) Consistency Determination for Seawater Desalination Facilities**
  DWQ and DAS Fees staff determined that due to the significant and lengthy process for reviewing and approving consistency determinations for seawater desalination facilities an application fee will be implemented and assessed annually until the permit is issued. Once the permit is issued, the discharger will pay the standard NPDES flow-based fee. DAS Fees staff is proposing the concept below and will be meeting directly with the eight current applicants to discuss the fees.

Intake Type	Proposed Fee
Surface	$205,200
Subsurface	$68,400

Confined Animal Facilities (CAF) – All fee categories for the CAF program will increase by approximately 10.0 percent.

- Water Boards staff has determined that some inequities exist in the way fees are assessed to dairy facilities that contain both mature dairy cattle and bred heifers in excess of the industry average. To make the fee schedule more equitable, Fees staff is proposing to amend section 2200(c) of the fee schedule by removing the text “(not at a dairy)” from the Feedlots table. This change will bring the table in line with the current fee schedule language requiring the discharger to pay the higher of the two fees if there are multiple animals types at a facility.

Agricultural (Ag) Lands – Division of Water Quality (DWQ) and DAS Fees staff are proposing the fee concept below to assess fees based on what, if any, types of management plan (Irrigation and Nitrogen Management Plans and Pesticide/Toxicity Management Plans) are developed and whether or not a discharger is enrolled in an approved third party group. DWQ staff received preliminary backing from several key stakeholders on this concept and will continue to hold meetings with stakeholders to further develop the concept, including refining definitions and finalizing fee amounts. In addition to the change in methodology, the targeted revenue amount for the Ag Lands program is increasing by approximately 11.4 percent.

Management Plan Tiers	A Individual Enrollment (Not in a 3rd Party Group)	B Enrolled in an Approved 3rd Party Group
1	$TBD/acre	$TBD/acre
2	$TBD/acre	$TBD/acre
3	$TBD/acre	$TBD/acre

Cannabis – Information for the Cannabis program will be updated prior to the meeting and as part of Agenda Item #7.

CASA RWG Water Subgroups List

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Kester	Greg	gkester@casaweb.org
Williams	Dave	dwilliams@bacwa.org
Heil	Ann	aheil@lacsd.org
Haney	Lisa	lhaney@ocsd.com

			Jepsen	Steve	sjepsen@dudek.com
			Green	Sharon	SGreen@lacsd.org
			Markle	Phil	PMarkle@lacsd.org
			Munakata	Naoko	NMunakata@lacsd.org
			Marjanovic	Katie	katiemarjanovic@lacsd.org

2019 CASA Regulatory Work Group Schedule

MEETING DATE	LOCATION	COMMENTS
January 17	**Conference Call** 8:30 – 10:30 Land Call 10:30 – 12:30 Water Call	**CASA Winter Conference 2019** January 23-25, Palm Springs
February 21	**Conference Call** 8:30 – 10:30 Land Call 10:30- 12:30 Water Call	**CASA DC Conference** February 25-27, Washington, DC
March 21	**Conference Call** 9:30- 11:30 Water Call	Annual Retreat at EBMUD Pardee Center Valley Springs, CA
April 18	**Conference Call** 8:30 – 10:30 Land Call 10:30- 12:30 Water Call	**CWEA Conference** April 9-12, Palms Springs, CA
May 16	**SF Regional Water Quality Control Board** 1515 Clay St., Suite 1400 Oakland, CA 94612	10:00 a.m – 10:30 Joint Meeting 10:30 – 12:30 Land Call 10:30 – 12:30 Water Call
June 20	**Conference Call** 8:30 – 10:30 Land Call 10:30- 12:30 Water Call	
July 18	SCCWRP 3535 Harbor Blvd, Suite. 110 Costa Mesa, CA 92626 10:30 a.m.	
August 21 or 22	Meeting at CASA Conference in San Diego Time TBD	**CASA Conference August 21-23** San Diego, CA
September 19	**Conference Call** 8:30 – 10:30 Land Call 10:30- 12:30 Water Call	**WEFTEC Conference** September 21 – 25, Chicago
October 17	OCSD 10844 Ellis Ave Fountain Valley, CA 92708 10:30 a.m.	
November 21	**Conference Call** 8:30 – 10:30 Land Call 10:30- 12:30 Water Call	
December 13	East Bay MUD 375 11th Street Oakland, CA 94607 10:30 a.m	**Annual Luncheon and Holiday Gift Exchange**

- ALL IN-PERSON MEETINGS START AT 10:30am UNLESS OTHERWISE NOTED
- If you would like to add an agenda item or schedule a presentation for an upcoming meeting, please contact one of the committee co-chairs at least 14 days before the designated meeting date
- If you would like an "after RWG" meeting noted in the agenda package, please contact Amber Baylor (abaylor@socwa.com) at least ten days before the designated meeting date.

FY 2019-20 Water Quality Fees Stakeholder Meeting

DATE:	June 11, 2019
TIME:	9:00-11:00 am
LOCATION:	CalEPA Headquarters Building Sierra Hearing Room, 2nd Floor 1001 I Street Sacramento, CA 95814
WEBCAST LINK:	https://video.calepa.ca.gov/
QUESTIONS:	FeeBranch@waterboards.ca.gov – Questions received prior to and during the meeting will be addressed during the meeting unless otherwise requested.

AGENDA

1. Welcome and Introductions

2. Waste Discharge Permit Fund (WDPF) Budget Cost Drivers (Attachment 1)

3. WDPF Recent Program Fee Increases (Attachment 2)

4. Summary of Proposed Fee Changes by Program (Attachment 3)

5. Division of Water Quality
    a. Redirected Program Information
    b. Cost of Compliance Information

6. Open Discussion

7. Cannabis Stakeholder Information
   (This item may go beyond the scheduled 11:00 am meeting end time but will end no later than 12:30 pm.)

WDPF Budget Cost Drivers
FY 2019-20
($000)

A	B	C	D	E (B+C+D)	F	G (E-F)	H (F+G)	I	J	K (G+J)	L (F+K)	M	N	O
WDPF Program	**FY 18-19 Fee Budget[1]**	**BCP Changes**	**Staff Cost & Program Adjustments[2]**	**FY 19-20 Allocation Budget**	**FY 19-20 Revenue Forecast**	**Forecasted Revenue Increase / (Decrease)**	**FY 19-20 Total Revenue**	**Average Program Percent Change**	**Revenue Adjust for 4% Fund Reserve[3]**	**Adjusted Revenue Increase / (Decrease)[4]**	**FY 19-20 Adjusted Total Revenue[5]**	**Adjusted Average Program Percent Change[6]**	**FY 20-21 (Budget Year +1)**	**FY 21-22 (Budget Year +2)**
WDR	$33,410	$10	$489	$33,909	$29,735	$4,174	$33,909	14.0%	$0	$4,174	$33,909	14.0%	4.0%	4.0%
Land Disposal	$14,132	($101)	($581)	$13,450	$13,950	($500)	$13,450	-3.6%	$0	($500)	$13,450	-3.6%	4.0%	4.0%
WQC (401 Cert)	$12,405	$1,718	$983	$15,105	$10,394	$4,711	$15,105	45.3%	$0	$4,711	$15,105	45.3% Net 18.3%	4.0%	4.0%
Storm Water	$32,086	($243)	$505	$32,349	$32,561	($212)	$32,349	-0.7%	$0	($212)	$32,349	-0.7%	4.0%	4.0%
NPDES	$33,036	$10	$217	$33,263	$29,586	$3,677	$33,263	12.4%	$0	$3,677	$33,263	12.4%	4.0%	4.0%
CAF	$5,138	($41)	$415	$5,512	$5,014	$498	$5,512	9.9%	$0	$498	$5,512	9.9%	4.0%	4.0%
Ag Lands (ILRP)	$7,832	($58)	($12)	$7,762	$6,967	$794	$7,762	11.4%	$0	$794	$7,762	11.4%	4.0%	4.0%
SUBTOTAL:	$138,039	$1,294	$2,016	$141,349	$128,207	$13,143	$141,349		$0	$13,143	$141,349			
Cannabis	$18,124	($134)	($85)	$17,905	$5,027	$12,878	$17,905	256.2%	$0	$12,878	$17,905	256.2%	4.0%	4.0%
TOTAL:	**$156,163**	**$1,160**	**$1,931**	**$159,254**	**$133,233**	**$26,021**	**$159,254**		**$0**	**$26,021**	**$159,254**			

Footnotes:

[1] Includes redirected expenditures for programs like Basin Planning, TMDL, monitoring and enforcement.

[2] Includes resource reallocation for employee compensation, retirement, health care costs, space optimization and pro rata.

[3] Adjustments to revenue levels while maintaining a prudent reserve.

[4] Recommended revenue level adjustments.

[5] Net revenue levels after adjustments.

[6] Net percentage change impact after recommended adjustments.

BCP Changes:

All WDPF Programs	($1,196)	18-19 BCP - CalEPA Space Optimization
WQC (Utility companies)	$1,831	19-20 BCP - Wildfire Prevention and Recovery (SB 901)
WDR & NPDES	$525	19-20 BCP - Sewer Service Provision for Disadvantaged Communities (SB 1215)
	$1,160	

WDPF Fee Paying Programs
Recent Program Fee Increases

	FY 2016-17		FY 2017-18		FY 2018-19		FY 2019-20		
Program	**Needed Increase**	**Adopted Increase**	**Needed Increase**	**Adopted Increase**	**Needed Increase**	**Adopted Increase**	**Prior Year Deferral**	**Additional Needed**	**Projected Increase**
WDR	3.0%	-	10.2%	-	18.6%	9.5%	9.1%	4.9%	14.0%
Land Disposal	-	-	-	-	-	-	-	-	-
WQC (401 Cert)	32.4%	20.0%	22.1%	20%[1]	18.1%	9.2%	8.9%	9.4%	18.3%
Storm Water	-	-	-	-	-	-	-	-	-
NPDES	3.3%	-	6.8%	-	19.6%	10.0%	9.6%	2.8%	12.4%
CAF	-	-	9.8%	-	12.2%	6.2%	6.0%	3.9%	9.9%
Ag Land (ILRP)	3.1%	-	22.3%	16%[2]	17.4%	8.9%	8.5%	2.9%	11.4%
Cannabis									

[1] Average increase over all categories.

[2] Related to BCP for 5 PYs

FY 2019-20 WDPF Fee Schedule
Summary of Proposed Changes by Program

NOTE: The proposed changes described below are only concepts at this time and are based on the data currently available. All final changes will be described in the agenda item for the September 17, 2019 board meeting at which staff will propose the FY 2019-20 fee schedule for the Board's consideration. To be notified when the final agenda item is released and of regular stakeholder information, please be sure you are signed up for the "Fee Regulations – Water Quality" email list at:
(https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html).

Waste Discharge Requirements (WDR) – All fee categories for the WDR program will be increased by approximately 14.0 percent.

- **Statewide General Waste Discharge Requirements for Winery Process Water Treatment Systems (Winery GO)**
  DAS Fees staff is proposing a new fee schedule specific to the Winery GO that is scheduled to be adopted by the State Water Board during FY 2019-20. The proposal, based on the current iteration of the Winery GO, includes tiers based on threat to water quality and whether a discharger can comply with the hydraulic loading rate in the order. DWQ staff is continuing to meet with stakeholders which may result in changes to this fee schedule concept.

Tier	Application Fee	Annual Fee
Tier 1 Largest	$100,000	$100,000
Tier 1 Medium	$50,000	$50,000
Tier 1 Smallest	$20,000	$20,000
Tier 2	$15,000	$15,000
Tier 2 NC[1]	$20,000	$20,000
Tier 3	$5,000	$5,000
Tier 3 NC[1]	$7,000	$7,000
Tier 4	$500	$500
Tier 4 NC[1]	$2,500	$2,500
Tier 5	$500	$500

[1] NC refers to non-conforming and is for Tier 2 through 4 facilities that cannot conform with the hydraulic loading rate in the Order.

Land Disposal – No fee changes are proposed for the Land Disposal program.

Water Quality Certification (WQC) – All fee categories for the WQC program will be increased by approximately 18.3 percent, except for the Fill & Excavation application fee. Staff is proposing to keep the Fill & Excavation application fee at the FY 2018-19 level to provide stability and predictability to potential applicants that might not apply for permits or comply with

regulations if fees continue to increase and to compensate by increasing the impact area per acre multiplier by 19.1 percent.

- **EcoRestore** – DWQ staff is in discussions with the California Natural Resources Agency (CNRA) in regards to an entity-specific fee for CNRA EcoRestore projects.
- **SB 901** – DWQ and DAS staff are considering two fee schedule concepts for utility companies that are performing dredge or fill activities pursuant to SB 901 and identified in an approved Utility Wildfire Mitigation Plan (plans are approved by the California Public Utilities Commission). DWQ staff will continue discussions with industry stakeholders to determine the best option to generate the required $1.8 million in revenue.
    - Option 1: Assess a flat fee on a per project basis.
    - Option 2: Assess a flat yearly fee to each utility based on a prorated determinate (i.e., size of service area, anticipated number of future permits needed, number of transmission poles/overhead lines, etc.).

Storm Water – No fee increases are proposed for the Storm Water program.

- DAS Fees staff is proposing to amend section 2200(b)(1)(A) of the fee schedule to clarify that special districts located within a city or county that does not oversee storm water compliance for the district are required to pay the MS4 fee.

NPDES – All fee categories for the NPDES program will increase by approximately 12.4 percent.

- **California Water Code Section 13142.5(b) Consistency Determination for Seawater Desalination Facilities**
  DWQ and DAS Fees staff determined that due to the significant and lengthy process for reviewing and approving consistency determinations for seawater desalination facilities an application fee will be implemented and assessed annually until the permit is issued. Once the permit is issued, the discharger will pay the standard NPDES flow-based fee. DAS Fees staff is proposing the concept below and will be meeting directly with the eight current applicants to discuss the fees.

Intake Type	Proposed Fee
Surface	$205,200
Subsurface	$68,400

Confined Animal Facilities (CAF) – All fee categories for the CAF program will increase by approximately 10.0 percent.

- Water Boards staff has determined that some inequities exist in the way fees are assessed to dairy facilities that contain both mature dairy cattle and bred heifers in excess of the industry average. To make the fee schedule more equitable, Fees staff is proposing to amend section 2200(c) of the fee schedule by removing the text “(not at a dairy)” from the Feedlots table. This change will bring the table in line with the current fee schedule language requiring the discharger to pay the higher of the two fees if there are multiple animals types at a facility.

Agricultural (Ag) Lands – Division of Water Quality (DWQ) and DAS Fees staff are proposing the fee concept below to assess fees based on what, if any, types of management plan (Irrigation and Nitrogen Management Plans and Pesticide/Toxicity Management Plans) are developed and whether or not a discharger is enrolled in an approved third party group. DWQ staff received preliminary backing from several key stakeholders on this concept and will continue to hold meetings with stakeholders to further develop the concept, including refining definitions and finalizing fee amounts. In addition to the change in methodology, the targeted revenue amount for the Ag Lands program is increasing by approximately 11.4 percent.

Management Plan Tiers	A Individual Enrollment (Not in a 3rd Party Group)	B Enrolled in an Approved 3rd Party Group
1	$TBD/acre	$TBD/acre
2	$TBD/acre	$TBD/acre
3	$TBD/acre	$TBD/acre

Cannabis – Information for the Cannabis program will be updated prior to the meeting and as part of Agenda Item #7.

CALIFORNIA ASSOCIATION of SANITATION AGENCIES

1225 8th Street, Suite 595• Sacramento, CA 95814 • TEL: (916) 446-0388 • www.CASAweb.org

May 24, 2019

Joaquin Esquivel, Chair
State Water Resources Control Board
1001 I St, Sacramento, CA 95814

SUBJECT: **Comment Letter – June 18, 2019 Board Meeting – FY 2019-20 CWSRF IUP**

Dear Chair Esquivel and Members of the Board:

The California Association of Sanitation Agencies (CASA) appreciates the opportunity to provide comments on the draft FY 2019-20 Clean Water State Revolving Fund Intended Use Plan. For more than 60 years, CASA has been the leading voice for public wastewater agencies on regulatory, legislative and legal issues. Our member agencies are engaged in advancing recycled water production and beneficial reuse, generating renewable energy supplies, and producing and beneficially using biosolids and other valuable resources. Through these efforts we help create a clean and sustainable environment for Californians. California's CWSRF is a critical source of financing for many of these projects.

Scoring System and Staff Recommendation

The proposed IUP is the first to fully utilize the new scoring system for establishing the fundable list. Overall, we believe the scoring approach worked well and we commend your staff for their outreach to applicants to confirm project scores in advance of releasing the document. The proposed alternative, Option C, would fund 39 projects at the level of $1.25 billion. While we will continue to work with the Water Board on options for increasing the sustainable funding level and making the most of staff resources through a combination of process streamlining and augmentations, we believe the staff recommendation is appropriate given the current program constraints.

We understand that staff are developing a new application form that will allow applicants to self-score and get a sense of where their projects might fall in the rankings. While the cut-off score is likely to differ from year to year (e.g. it is 13 this year but could be 12 or 14 next year), it is likely that with this new application form and additional experience with the scoring system, over time applicants will be able to determine the likelihood of project funding based on past funding levels.

We also renew our recommendation that the Water Board consider the use of a more streamlined or pared down initial application for the purpose of scoring, similar to the process utilized in the WIFIA program and several SRF programs across the U.S. For planning and design loans, the initial application would be sufficient for SWRCB to guide resources to the most critical projects. For construction loans, the applicant should provide sufficient information to demonstrate that the project can be ready within the funding year and commit to a timeframe within which the findable project needs to be complete and ready to go. Projects seeking to

maximize their score for purposes of getting on the construction loan/project fundable list will need to be at 90% design level, meaning agencies are at the verge of going out to bid and awarding construction contracts for that project. Only then will the project be on the construction loan/project fundable list.

Currently, agencies are in an extreme “hurry up and wait” mode, and the applicant is forced to either delay the project or proceed with construction before the CWSRF financing agreement has been executed. A streamlined initial application approach could potentially address this issue by allowing environmental review before projects are so far along in the design process, thereby better synching the approval, review, and construction initiation timelines. This approach has the added benefit of allowing project applicants to potentially incorporate issues identified in the environmental review process into the project design without costly change orders.

Cash Flow Management on Multi-Year Projects

Depending on local resources, local expertise, and project complexity, many if not most projects require multiple years to plan, design, and construct. However, most projects do not require that all of the funding be set aside in the first year since the expenses (and corresponding request for disbursements) will also be spread over multiple years. Current Water Board practice is to make loan commitments for an entire project from a given year’s funding target, regardless of whether that money is actually needed in the first year of the project. This effectively ties up funds that might otherwise be made available to other borrowers until draws are made, which for multi-year projects could be over the course of many years. One way to potentially free up this additional money is to identify funding that is not needed until future years and make those funds available for distribution sooner. The approved funding in subsequent years could then be met with future IUPs. We recognize that there is some risk in this approach because there is no absolute certainty regarding future appropriations, however given the long-term stability of the SRF programs, we believe this risk is minimal. This approach would maximize the number of projects that could be built in any given year and provide a reasonably high level of assurance to agencies and their projects.

A Multi-Year Approach to Funding Projects

We appreciate the constraints on the CWSRF given the volume of applications received each year, and the need to assign partial project funding to larger projects in some circumstances. However, this “one year at a time” approach to the funding target and the fundable list leaves future project applicants with very little certainty or plan for funding specific projects in future years. This creates a concern in part because applicants will likely have to include programmatic requirements (e.g. Davis-Bacon, Buy American Mandates) within bid documents on the chance that future assistance may be available for that project. We recommend that the Water Board work with its financial advisors to evaluate programs in other states that utilize multi-year commitments. This allows them to commit to more projects overall, and also saves staff resources because a single project agreement can be used over multiple funding cycles.

Eliminate Redundant Reviews for Repeat Borrowers

Many of our members express frustration about re-inventing the wheel with a new financial assistance agreements for each subsequent project. After negotiating acceptable terms on one project, both sides are forced to go back to the drawing board on subsequent projects, which seems to be an enormous waste of time and resources. The process would be far more efficient for both applicants and Water Board staff if specific terms negotiated for an agency can be extended to future agreements rather than starting over with the standard agreement each time. As the State Water Board's policies change over time, the CWSRF staff can focus only on these changes instead of starting from scratch with each legal review.

Funding Capacity

We recently had the opportunity to discuss with Board staff options and ideas for further leveraging or capitalizing the CWSRF. While we are realistic about the funding levels that might be achieved (we do not expect $7 billion to materialize in a single year), we do believe there is potential to increase capacity. We will continue working with your staff to identify proposals in the areas of interest rates, state match and other reforms that, if successful, would allow California to narrow the funding gap and invest in infrastructure essential to public health and the environment.

Sincerely,

Roberta L. Larson
Executive Director

CFCC 2019 FUNDING FAIRS

Please join the California Financing Coordinating Committee (CFCC) for this **NO COST** event.

2019 Funding Fair Schedule

17 Apr
Regional San – Administration Office
10060 Goethe Road
Sacramento, CA 95827

09 May
Kern County Farm Bureau
University of California
Cooperative Extension
1031 South Mount Vernon Avenue
Bakersfield, CA 93307

22 May
City of Clearlake
Senior Community Center
14050 Olympic Drive
Clearlake, CA 95422

11 Jun
Joseph Centeno Betteravia
Administration Building
511 Lakeside Parkway
Santa Maria, CA 93455

14 Aug
Coachella Valley Water District
75-515 Hovley Lane
Palm Desert, CA 92211

15 Aug
Irvine Ranch Water District
Learning Center
21 Riparian View
Irvine, CA 92612

Some participating agencies also fund other types of infrastructure projects including streets and highways, emergency response vehicles, and community facilities.

CFCC agencies fund the following types of eligible infrastructure projects:

- Drinking Water
- Wastewater
- Water Quality
- Water Supply
- Water Conservation
- Water Use Efficiency
- Energy Efficiency
- Flood Management

Attendee Registration

Go to www.cfcc.ca.gov and click on funding fairs. Walk-ins are always welcome! For funding fair questions, please call (916) 447-9832 x1029.

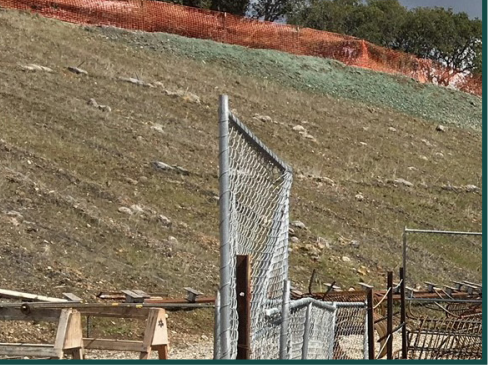
Agenda

Funding fair agenda at each location:

Check in:	8:00 a.m. to 8:30 a.m.
Agency Presentations:	8:30 a.m. to 12:00 p.m.
Discuss Your Projects:	12:00 p.m. to Completion

Language interpretation services are available upon request. Contact Seresa Hartwell at (916) 341-5972 or email seresa.hartwell@waterboards.ca.gov at least five days before the event.

For more information, please visit our website: www.cfcc.ca.gov



What is CFCC?

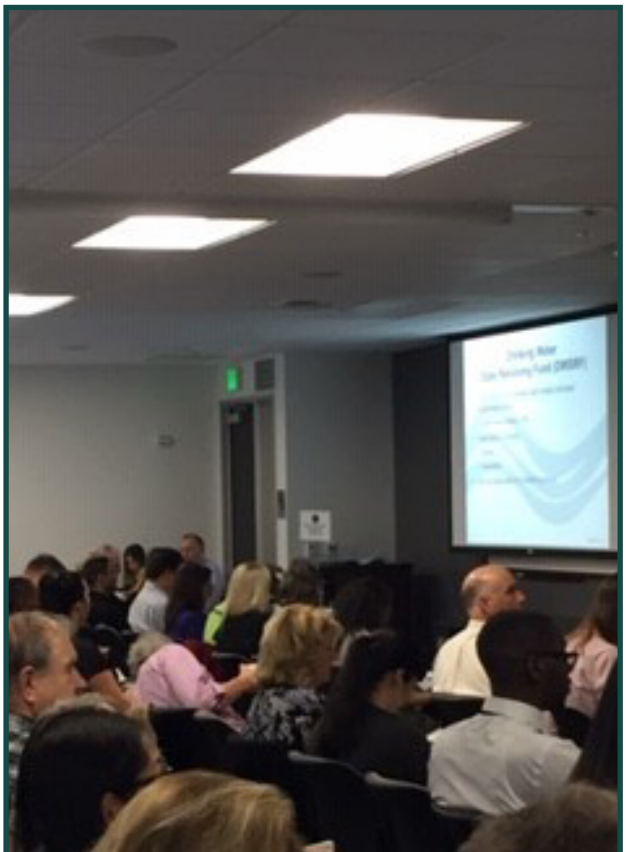
Formed in 1998, CFCC comprises six funding members: four state and two federal agencies. CFCC members facilitate and expedite the completion of various types of infrastructure projects helping customers combine the resources of different agencies. Project information is shared between members so additional resources can be identified. CFCC members conduct free funding fairs statewide each year to educate the public and potential customers about the different member agencies and the financial and technical resources available.

Who Should Attend

Representatives from public works, local governments, California Native American Tribes, city managers and planners, economic development and engineering professionals, officials from privately owned facilities, water and irrigation district managers, financial advisors, and project consultants.

CFCC Mission Statement

The purpose of CFCC is to foster cooperation among the six funding agencies that administer water, wastewater, and other public infrastructure needs. The CFCC encourages the efficient use of funds by reducing administrative costs for recipients and funding agencies and evaluating methods for improved performance. CFCC members provide a forum to resolve state and federal program requirement conflicts that may make multiple-funded project difficult to administer. Additionally, funding fairs provide the CFCC with an opportunity to present current program information to the public. Attendees will also have the opportunity to speak with program staff directly.



Eligible Project Types

CFCC agencies fund the following types of eligible infrastructure projects: drinking water, waste-water, water quality, water supply, water conservation, water use efficiency, energy efficiency, flood management, solid waste, and compost. Some of the participating agencies also fund other types of infrastructure projects including streets and highways, emergency response vehicles, and community facilities.

CFCC Information

CFCC has conducted free funding fairs statewide each year to educate the public and offer potential customers the opportunity to meet with financial representatives from each agency and learn more about available funding.

Please visit the CFCC website at www.cfcc.ca.gov for the 2019 funding fair schedule, the CFCC member directory, and general information.

NOTICE OF PUBLIC WORKSHOP

CONCERNING AMENDMENTS TO THE WATER QUALITY CONTROL PLANS FOR THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS AND TULARE LAKE BASIN TO INCORPORATE A CENTRAL VALLEY-WIDE SALT AND NITRATE CONTROL PROGRAM

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board) will hold a public workshop to receive information and solicit public input regarding the Central Valley-wide Salt and Nitrate Control Program.

Tuesday, July 2, 2019 - 9:30 a.m.
Joe Serna Jr. – CalEPA Headquarters Building
Coastal Hearing Room
1001 I Street, Second Floor
Sacramento, CA 95814

BACKGROUND
The State Water Board is considering approving the Central Valley Regional Water Quality Control Board's (Central Valley Water Board's) Amendments to the Sacramento and San Joaquin Basin Plan and the Tulare Lake Basin Plan to incorporate a Central Valley-wide Salt and Nitrate Control Program (Salt and Nitrate Control Program). The Salt and Nitrate Control Program is intended to provide a framework for the Central Valley Water Board to regulate salt and nitrate while also ensuring that groundwater users whose wells are impacted with nitrates are provided safe drinking water. The proposed Amendments include:

- A Phased Salt Control Program
- A Nitrate Control Program that includes:
  - Early Action Plans to provide Safe Drinking Water
  - Prioritized Groundwater Basins
  - Management Zone Alternatives
- A Conditional Prohibition for Salt and Nitrate Discharges
- Surveillance and Monitoring Program
- Guidance to Implement Secondary Maximum Contaminant Levels
- New and Revised Policies to effectuate the Control Programs, including:
  - Revision of the Salinity Variance Policy
  - Revision of the Exceptions Policy
  - Drought and Water Conservation Policy
  - Offsets Policy
- Definitions and Terminology for the Salt and Nitrate Control Program

ISSUES FOR DISCUSSION AT WORKSHOP

The purpose of the July 2, 2019 workshop is for the State Water Board to receive information from Central Valley Water Board staff and oral comments from interested persons related to the Salt and Nitrate Control Program. The State Water Board may schedule a subsequent Board Meeting to consider approval of the Salt and Nitrate Control Program.

In accordance with Water Code section 13245, water quality control plan amendments adopted by a regional water board do not become effective unless and until approved by the State Water Board. The State Water Board may approve the Salt and Nitrate Control Program or return it to the Central Valley Water Board for further consideration and resubmission to the State Water Board. If the State Water Board approves the Salt and Nitrate Control Program, the State Water Board's approval resolution may include specific directions and expectations regarding the Central Valley Water Board's implementation of the Salt and Nitrate Control Program as long as any such directions or expectations are consistent with the Salt and Nitrate Control Program. Such directions could include, for example, a requirement that the Central Valley Water Board submit periodic reports to the State Water Board on its progress implementing the Salt and Nitrate Control Program. Interested persons should be prepared to discuss any appropriate directions or expectations.

PROCEDURAL MATTERS

This workshop is for informational purpose and no formal action will be taken. There will be no sworn testimony or cross-examination of interested persons, but the State Water Board and its staff may ask clarifying questions.

The workshop is an opportunity for interested persons to provide oral input to the State Water Board. The written comment period has closed, so no written comments will be accepted. To ensure a productive and efficient meeting in which all interested persons have an opportunity to participate, oral comments at the workshop may be time-limited.

The workshop may be able to allocate time for participants with common interests to coordinate and provide oral presentations as a group. For those participants wishing to organize and present comments as a group, please contact Anne Littlejohn by June 19, 2019 at (916) 464-4840 or anne.littlejohn@waterboards.ca.gov to determine if time can be allocated.

WEBCAST OF WORKSHOP

To access the webcast please visit the following link: https://video.calepa.ca.gov/

INFORMATION REGARDING WORKSHOP

Please direct any inquiries concerning this notice to Anne Littlejohn at (916) 464-4840 or anne.littlejohn@waterboards.ca.gov.

Related documents and additional information are available at:
https://www.waterboards.ca.gov/centralvalley/water_issues/salinity/#saltnitrate_cp_bpa

June 1, 2019
Date

Jeanine Townsend
Clerk to the Board